

Claremont Colleges

Scholarship @ Claremont

Pomona Senior Theses

Pomona Student Scholarship

2021

Regulating Cultural Expressions: A Comparative Case Study on Hair and Race in New York and South Africa

Michaela Shelton

Follow this and additional works at: https://scholarship.claremont.edu/pomona_theses



Part of the [American Politics Commons](#), and the [Comparative Politics Commons](#)

Recommended Citation

Shelton, Michaela, "Regulating Cultural Expressions: A Comparative Case Study on Hair and Race in New York and South Africa" (2021). *Pomona Senior Theses*. 323.

https://scholarship.claremont.edu/pomona_theses/323

This Open Access Senior Thesis is brought to you for free and open access by the Pomona Student Scholarship at Scholarship @ Claremont. It has been accepted for inclusion in Pomona Senior Theses by an authorized administrator of Scholarship @ Claremont. For more information, please contact scholarship@claremont.edu.

**Regulating Cultural Expressions: A Comparative Case Study on Hair and
Race in New York and South Africa**



Michaela D. Shelton

A thesis submitted in partial fulfillment of the requirements for the degree of Bachelor of Arts in

Politics at Pomona College

Professor Erica Dobbs, PhD

April 23rd, 2021

Acknowledgments

I would like to thank my friends and family who motivated me during the COVID-19 pandemic to finish this necessary work. I could not have found the will to continue if I did not receive their support. I also want to thank my thesis advisor, Professor Erica Dobbs, for providing me with unconditional support and reminding me of hair discrimination's political significance in the United States and Abroad. To the Career Development Office at Pomona College, thank you for funding my 2020 RAISE summer research project, which was inextricably tied to my thesis research. I am grateful to the CROWN Coalition founding members for allowing me to interview their senior leadership and hear directly from Black women in positions of power. Lastly, I want to thank the Politics Department at Pomona College and the Intercollegiate Department of Africana Studies for giving me the theoretical tools and language to discuss Black women's experiences with hair discrimination in liberal democracies.

TABLE OF CONTENTS

ABSTRACT	5
INTRODUCTION	6
CONTEXT	9
KEY CONCEPTS	13
Democracy vs. Liberalism	15
Multiculturalism vs. Liberal Democracies	16
CASE SELECTION	17
LITERATURE REVIEW	22
INSTITUTIONS: THE RULES OF THE GAME AFFECT THE PASSAGE OF LEGISLATION	22
SOCIAL MOVEMENTS: MOBILIZATION OF KEY GROUPS AND ACTORS AFFECT THE PASSAGE OF LEGISLATION	24
CULTURAL HEGEMONY: GROUP CONSCIOUSNESS AFFECTS CHALLENGES TO THE STATUS QUO	30
DATA AND METHODS	33
THE CASE OF NEW YORK	35
A BRIEF REVIEW OF INSTITUTIONS	36
NEW YORK'S HUMAN RIGHTS AGENDA	38
CONTEXT OF HAIR DISCRIMINATION REFORM LOCALLY	39
REFORM RESPONSE FROM NYC AND NYS	41
WHY THE REFORMS WERE SUCCESSFUL	43
COALITIONS AND POWER SHARING: BLACK WOMEN AS THE HEAD BOSSES IN CHARGE	50
BLACK HAIR IS THE NEW CULTURAL WAVE	59
<i>BLACK WOMEN ON SIGNIFICANCE OF CROWN ACT</i>	59

<i>BLACK WOMEN ON HAIR IN THE WORKSPACE</i>	62
<i>BLACK WOMEN ON REPRESENTATION & INCLUSION</i>	64
THE CASE OF SOUTH AFRICA	68
SOUTH AFRICA’S HUMAN RIGHTS AGENDA	69
CORRUPTION, FACTIONS, AND INSTITUTIONAL INCOMPETENCE	75
EXAMINING SOUTH AFRICA’S NONSEXIST AGENDA: WOMEN IN POWER	80
BLACK SOUTH AFRICAN WOMEN’S CULTURAL ATTITUDES TOWARD NATURAL HAIR	83
CONCLUSION	90
KEY TAKEAWAYS	91
POLICY IMPLEMENTATION	92
FUTURE AREAS OF STUDY	93
REFERENCES	94
<hr/>	
FIGURES	105
<i>APPENDIX A</i>	108
<i>APPENDIX B</i>	109
<i>APPENDIX C</i>	110
<i>APPENDIX D</i>	111

Abstract

In the field of political science, there is an ongoing debate about the factors that determine political outcomes for disadvantaged groups. State governments in the United States have actively passed legislation to curb hair discrimination even though people of African descent are a minority. However, in South Africa, where people of African descent are a majority, neither the national government nor the provincial governments have passed legislation to curb hair discrimination cases. Why are the cultural rights of Black people being protected by legislation in the United States where Black people are a minority but not in South Africa where Black people are a majority?

The literature on institutions posits that state capacity can be hindered by government design or due to divergent actions from existing protocol. The literature on social movements argues that group size, resource mobilization, issue framing, political opportunity structures, and collective identity influence collective action outcomes. The literature on cultural hegemony hypothesizes that outcomes are rooted in the construction of social norms in society. I conduct a comparative case study which employs a qualitative and quantitative research design. I use data from interviews, government reports, media coverage, press releases, and secondary studies to compare policy outcomes in liberal democracies. Overall, my findings indicate that the critical conditions attributed to the CROWN Act's success in New York involve a combination of influential leaders, interested actors, and high performing institutions with the capacity to enforce legal protections against hair discrimination.

INTRODUCTION

In December 2018, a 16-year-old wrestler from New Jersey was forced to cut off his dreadlocks to participate in a match (The Guardian 2019). This incident of racial bias took social media by storm and shed light on the harsh reality many people of African descent face in their school and work environments. In 2017, The Perception Institute conducted the “Good Hair Study” and found that “a majority of people, regardless of race and gender, hold some bias toward women of color based on their hair” (Johnson et al. 2017, 13). Furthermore, the study also found that Black women are *twice as likely* to experience social pressure at work to straighten their hair compared to white women. When Black women try and seek legal recourse, the courts often side with employers, citing that because natural hair is not an immutable characteristic like race, it does not deserve the same protections. Therefore, in the absence of court intervention, many state governments in the United States have actively passed legislation to curb hair discrimination cases although people of African descent are a minority.

In August 2016, Pretoria High School for Girls in South Africa became the subject of intense media scrutiny for its racist grooming policies. Black students protested a clause in the school’s code of conduct that banned wide cornrows, braids, and dreadlocks. Photos from the student-led protest went viral and sparked a national debate on racism in education, with the hashtag #StopRacismAtPretoriaGirlsHigh being used more than 150,000 times on Twitter. The protest led to provincial education minister Panyaza Lesufi suspending Girls’ High’s hair clause and launching an independent investigation into charges of racism at the school. All major democratic parties in South Africa also weighed in on the situation. The pressures of the social media resistance campaign and government intervention led to Girls’ High changing its code of conduct. Despite the social media campaign’s success, hair discrimination cases in formerly

white schools continue to arise annually. In South Africa, where people of African descent are a majority, neither the national government nor provincial governments have passed legislation to curb hair discrimination cases.

Why are the cultural rights of Black people being protected by legislation in the United States where Black people are a minority but not in South Africa where Black people constitute a majority? What lessons can we draw about race, power, and identity from these cases? The United States' proactive response and South Africa's inaction to hair discrimination raise fundamental questions about the capacities of liberal democracies to address the tensions between offering cultural protections for groups and maintaining individual rights. In South Africa, Black people have the *numbers* to enact favorable legislative agendas. However, Black people's majority status does not automatically translate into redistributive policies that benefit their group rights. In contrast, Black people in the United States cannot play the numbers game to a large degree to protect their group rights. However, Black people in the U.S. can strategically use their *influence* to translate their views into policy. In their article "What Democracy Is and Is Not," political scientists Philippe C. Schmitter and Terry Lynn Karl develop a phrase describing this tension between the roles of numbers and influence in the political arena. They state that "in modern democracies, votes may be counted, but influences alone are weighted" (Schmitter and Karl 1991, 77). I will return to the possibility of influence outweighing numbers in the United States and South Africa cases.

I argue that the influence of African Americans, and Black women in particular, played a crucial role in the passage of anti-hair discrimination laws across state legislatures in the United States. While Black people may not constitute a majority in the United States, their small group size has historically given them the ability to form coalitions around selective incentives (like the

hair discrimination issue). Additionally, the growing representation of Black women in positions of power within the public and private sectors allowed coalitions to take advantage of a new political opportunity structure and leverage their expansive networks to get hair discrimination on the legislative agenda. Finally, Black women in these powerful positions recognized the intrinsic value of protecting natural hairstyles due to the cultural awareness movements around natural hair from the 1960s and 2010s. Furthermore, they also understood how other Black women positioned lower on the social ladder benefit from legal protections on natural hairstyles.

Descriptive representation across formal institutions is not enough to facilitate cultural protections. If that were the case, Black South Africans could leverage their demographic advantage to pass anti-hair discrimination laws. Political scientists often place a high degree of importance on formal institutions in comparative politics. South Africa's consensus-based system is the government design that political scientists correlate with a higher probability of churning out policies that benefit the people. Since South Africa's outcome is unexpected, we must dig deeper to see what informal practices are at play that may have aided the United States in adopting cultural protections for natural hairstyles but impeded South Africa's capacity to do so.

Black women's vast social networks within the United States gave them higher concentrations of power in the political arena. Black women spearheaded anti-hair discrimination legislation in state chambers and occupied the leadership positions in civil society and the private sector that presented them a seat at the table. The influence of African Americans goes beyond the public sector and reaches corporations which give them more leverage in the political arena.

Political opportunity structures allowed Black women to play a leading role in advancing hair discrimination with the backing of allies in the government. Black women were embedded

in New York City's formal institutions and acted as street-level bureaucrats to facilitate policy changes. These women's work at the local level made it easier for social movement organizations to lobby for statewide hair discrimination legislation in New York. The success story of anti-hair discrimination legislation passing in New York at the municipal and state levels can ultimately serve as a legislative roadmap to federal protections for natural hairstyles.

CONTEXT

Of all the protections Black people could be fighting for, one may ask, why hair? Why is hair such a contentious issue for Black people in the United States and South Africa? And why were anti-hair discrimination laws not introduced earlier? This section addresses the political and cultural significance of hair for people of African descent.

The history of hair discrimination in the United States dates back to slavery. In 1786, the Tignon laws of Louisiana required free Black women to wear their hair in a tignon (scarf or handkerchief) to denote their slave status. Colonial officials hoped that these laws would maintain Louisiana's social order, which Black women's hairstyles and Black women's elegant styles of dress threatened. When the United States purchased Louisiana from France in 1803, the local government no longer enforced the Tignon laws. However, Black hair continued to be policed in other ways by colonial powers during and after slavery. Before the Tignon laws were passed, Thomas Jefferson infamously advocated for using beauty to determine superiority among humans, just as scientists had done for animals in his *Notes on Virginia*. Jefferson's rhetoric to justify African Americans' enslavement based on their physical features such as hair and skin color still has ramifications today because physical characteristics were purportedly connected to intelligence as part of the white supremacist ideology.

In the 1960s to the early 80s, the Black Panther Party (“BPP”) rose to prominence for their militant approach to securing African Americans’ civil liberties. Leaders within the BPP often dressed in all Black attire and styled their hair in Afros. The BPP adopted a stance that proclaimed Black is beautiful, and the Afro symbolized Black people’s cultural appreciation for their African roots. While leaders in the BPP tried to celebrate their Black features, some were subsequently criminalized for their Blackness. For example, Angela Davis, a widely known leader in the BPP and all Black branch of the Communist Party USA, was prosecuted by California for allegedly committing three capital felonies, including conspiracy to murder. During her highly publicized trial, Davis’ Afro became synonymous with criminality and Black insurgency. Despite the fact that Davis emerged victorious from her case, the media coded Afros and the BPP’s activities as politically charged and portrayed the two in a negative limelight.

The South African apartheid state relied on fluid constructions of race to attach value and privileges to specific groups. Deborah Posel (2001) argues that “if anything and everything could be read as a sign of race, then race was *in* everything -- a ubiquitous dimension of everyday life...” (Posel 2001, 65). The architects of apartheid believed racial differences were blatantly obvious and used arbitrary measures that considered an individual’s social standing within their community, skin color, heritage, educational background, etc., to determine if they fit into the category of white or Black African. The pencil test was one arbitrary measure the apartheid state used to distinguish between Blacks, whites, and coloreds. The test involved placing a pencil into the subject’s hair. A passing score was determined by how easily the pencil fell from the hair. Posel (2001) contends that “Some officials read racial differences into the texture of a person’s hair, the notorious pencil test being used to determine the boundary between ‘white’ and ‘non-white.’ Appeal boards adjudicating requests for reclassification sometimes called barbers to

testify as to the texture of the person's hair" (Posel 2001, 59). These arbitrary classifications lead to disparate outcomes for some colored families whose children were forced to attend segregated facilities based on whether the pencil stayed in their hair. The pencil test's legacy adds fuel to the global debate on the widespread representation of Eurocentric beauty standards regarding professionalism and femininity.

Scholars across disciplines argue that hair is an indicator of blackness and subsequently, a marker of culture. For hooks (1978), straightening one's hair in the black community "was connected solely with rites of initiation into womanhood" (hooks 1978, 1). The appearance of a black woman's hair would reveal details about them, such as their age, maturity level, and relationship with femininity. Taking care of one's hair in the comfort of one's home or at a beauty parlor was one way black women built community with each other. hooks (1978) states that "Hair pressing was a ritual of black women's culture of intimacy" (hooks, 1978, 2) and allowed them to create communal spaces where "we as women work to meet each other's needs, to make each other feel good inside..." (hooks 1978, 2). Banks (2000) argues that "Hair matters because it is a part of our being, of our very existence that has meaning on the level of ideas and materiality" (Banks 2000, 25). Black women construct their definitions of beauty concerning their hair and skin color, which are the primary signifiers of race. The good hair vs. bad hair debate positions Blackness at the periphery and upholds whiteness as the golden standard for beauty. Banks (2000) contends that in this debate, "the pride and elegance that once symbolized curly and kinky hair immediately bec[o]me[s] a badge of racial inferiority" (Banks 2000, 7). Banks' (2000) argument about recognition of beauty is linked to hooks' (1978) point about Black women craving recognition through processed hairstyles. hooks (1978) cites Black women's fear of losing approval and recognition as their primary motivation for straightening their hair.

Beauty has a close relationship with sexuality and the desire to become the subject of the male gaze, which Black women identify as an influence for styling their hair (Banks 2000; hooks 1978; Tate 2009). Hair is also seen as a profitable commodity which furthers the goal of capitalism of materializing everything.

While some Black feminist scholars advocate for Black women to wear their ‘natural’ hair, Tate (2009) represents a departure in the literature based on her definition of black aesthetics. Tate (2009) argues that Black women etch beauty unto their bodies by including artificial materials in their hair care process. She classifies “lenses, wigs, blonde hair dye not as approximations of whiteness but as ‘versionings’ of Black beauty” (Tate 2009, 28). When Black women wear weave or braid extensions, they participate in global commerce where cross-cultural exchanges happen and influence the ways Black women perform blackness (Tate 2009; Oyedemi 2016). The fluid relationship between hair and the black community is further outlined by Andre Powe (2009), who argues that “Hairstyles have memory and meaning. Each hairstyle choice tells an intimate story of the wearer, disclosing a personal narrative to spectators” (Powe 2009, 2). Hair contains heritage and messages that are transmitted from older generations to younger generations. Powe’s classification of hair as a language provides a new lens to analyze hair’s cultural significance for black women.

Furthermore, Powe’s focus on language builds upon the work of Stuart Hall (1997) and his theory of the floating signifier. Stuart Hall’s theory of the floating signifier helps us understand how hair has been used to measure blackness from a socio-historical framework. Stuart Hall was a cultural theorist and a professor of Sociology at Open University in the United Kingdom. In his lecture “Race, The Floating Signifier,” Hall states the following about signifiers: “Their meaning, because it is relational, and not essential, can never be finally fixed,

but is subject to the constant process of redefinition and appropriation” (Hall 1997, 8). In defining the floating signifier, Hall prefaces a constructionist approach in which one’s production of meaning does not rely on determinisms or universal truths. Hall also undermines essentialist thinking through his contention that the signifier is always under construction because its meaning changes based on the experience of the person telling the story.

KEY CONCEPTS

Since these questions are the focal points of my research, democracy, liberalism, and multiculturalism emerge as key concepts in understanding the politics of hair and liberal democracies’ responses to racial discrimination. Hair matters because it draws our attention to broader issues in which group rights and individual rights are at the center of conflict in liberal democracies. Not all liberal democracies are alike in their institutional capacities and approaches to governance.

Liberal democracies in Europe have weighed in on the debate between individual rights versus group rights by adopting regulations on religious dress in schools. For example, the Constitutional Court of Belgium recently decided that Francisco Ferrer Brussels university’s ban on headscarves does violate the Constitution or the European Convention on Human Rights. The complaint originated from a group of Muslim women who attended the university where the ban was practiced. The Court’s ruling had a detrimental impact on Belgium’s Muslim population, particularly Muslim women, who wear religious dress in observance of their faith. University students weighed in on the situation via Twitter and retweeted hashtags such as #TouchePasAMesEtudes (Don’t touch my studies) and #HijabisFightBack. Despite the Court’s ruling, *The Brussels Times* reports that several universities have openly communicated that

headscarves are allowed in their institutions because they value diversity and inclusion (Chini 2020).

In the absence of national legislation, the Courts in liberal democracies have started to weigh in on multicultural accommodation. The High Court in Jamaica recently determined that Kensington Primary School did not infringe on the constitutional rights of a child for banning dreadlocks in their grooming policy due to hygienic concerns. The court ruling stated the following: “The objective of creating a more controlled hygienic environment is important to the proper order and effective learning at the school and does not prevent the claimant from enjoying religious freedom, and the expression of that religious choice and cultural ethnicity to which her parents subscribe in their household” (Elassar 2020).

Agencies responsible for implementing government policies have engaged in the debate between individual rights and group rights. For example, the U.S Military recently adopted reforms to their grooming policies which disproportionately affected Black women. The old restrictions included but were not limited to hairstyles such as locs, which were described as “matted and unkempt.” According to the *Associated Press*, the new regulations now allow women to wear their hair in braids, twists, locs, cornrows, and other natural hairstyles (Associated Press 2021).

In a similar fashion as the United States, grooming policies in the United Kingdom historically prohibited Sikhs from wearing turbans with their job uniforms. The United Kingdom implemented reforms in 2015 when parliament introduced a new employment law that formally allowed Sikhs to wear turbans in all workplaces with a few exceptions. According to *The Hindu*, in 2018, one of the guards marching for the Trooping of Colour (an event celebrating the Queen’s 92nd birthday) wore a turban for the first time in history. Despite the progress Great

Britain and the United States have made on adopting culturally inclusive policies, liberal democracies still have more work to do to settle disputes between individual rights and group rights in the political arena.

Democracy vs. Liberalism

Robert Dahl's definition of democracy is commonly accepted as the standard in political science literature. Dahl coined the term 'procedural minimalists,' which outlines the bare minimum requirements for a country to be considered a democracy. In his book *The People v. Democracy: Why Our Freedom Is in Danger and How to Save it*, Yascha Mounk summarizes the procedural minimalist standard as follows:

1. Free, fair, and competitive elections;
2. Full adult suffrage;
3. Broad protection of civil liberties including freedom of speech, press, and association; and
4. The absence of non-elected 'tutelary' authorities (e.g., militaries, monarchies, or religious bodies) that limit elected officials' power to govern.

One of Mounk's critiques of Dahl's procedural minimalist definition is that it conflates democracy and liberal rights and places too much emphasis on the importance of political institutions. Mounk (2018) offers a more simplistic definition of democracy as "a set of binding electoral institutions that effectively translates into public policy" (Mounk 2018, 27). He distinguishes liberal institutions from democracy by stating they "effectively protect the rule of law and guarantee individual rights such as freedom of speech, worship, press, and association to all citizens (including ethnic and religious minorities)" (Mounk 2018, 27). When political scientists combine liberalism with democracy, they get liberal democracies which Mounk calls

“a political system that is both liberal and democratic--one that both protects individual rights and translates popular views into public policy” (Mounk 2018, 27).

The process by which liberal democracies translate popular views into public policy can take on various forms. Schmitter and Karl (1991) argue that “Modern democracy...offers a variety of competitive processes and channels for the expression of interests and values-- associational as well as partisan, functional as well as territorial, collective as well as individual” (Schmitter and Karl 1991, 76). For example, democracies that follow a majority rule approach may also have checks and balances in place to prevent tyranny of the majority. On the other side of the spectrum, democracies that follow a consensus-driven approach may consider a wide variety of opinions to prevent minority rights from being siloed.

Multiculturalism vs. Liberal Democracies

The politics of multiculturalism has a contentious relationship with liberal democracies because the former establishes a theory for group rights, whereas the latter is concerned with individual rights. Multiculturalism is a sociological concept that states cultures, races, and ethnicities, particularly those belonging to a minority group, deserve special acknowledgment of their differences within a dominant political culture (Eagan 2015). Multiculturalism in liberal democracies can cause friction when the common good is eroded in favor of minority interest or when multiple cultural groups compete for recognition, thereby reinforcing the dominant culture (Eagan 2015). In his book *Multicultural Citizen: A Liberal Theory of Minority Rights*, Will Kymlicka defines liberalism as a view that “requires *freedom within* minority groups and *equality between* the minority and majority groups” (Kymlicka 1995, 152). He addresses the limits of liberal democracies to accept disadvantaged groups’ demands in chapter 8 of *Multicultural Citizen*. While liberal theory can express tolerance and acceptance of minority

groups, it disavows “any such rights which enable one group to oppress or exploit other groups” (Kymlicka 1995, 152). The tension between liberal theory and minority rights raises the question if liberal democracies can even protect minority rights given their focus on individualism.

CASE SELECTION

The two countries I compare are South Africa and the United States because both are liberal democracies with racial stratification and legacies of racial discrimination. South Africa’s and the United States’ history of discrimination created longstanding tensions between liberal rights and group rights. The ways each government has approached rectifying their mistreatment toward people of African descent are significant for hair discrimination and cultural protections for disadvantaged groups.

Both countries have had liberation movements and reform of formal state institutions. For example, the U.S. Supreme Court ordered schools to desegregate in the landmark case *Brown v. Board of Education Topeka, Kansas*. The 1960s era Civil Rights Act and Voting Rights Act subsequently helped African Americans abolish the Jim Crow laws of the American South and obtain political power. From the 1960s to the early 1990s, the African National Congress (ANC) led a liberation movement that opposed South African apartheid. The 1994 elections in South Africa formally signified the end of apartheid. They also represented the ANC’s ascent to power which gave Black South Africans more political opportunities to enact their legislative reforms.

Expressions of Black culture, and in particular hair, remain a contentious issue in both countries. The United States has undergone rapid changes in the way people consume Black culture within the last decade. For example, in 2018 R&B/Hip-Hop music overtook rock to become the most popular genre of music in the United States. Black culture is often expressed through R&B/Hip-Hop music, and the increase in consumption for the musical genre indicates a

change in cultural trends among American consumers. In 2019, Black women in the United States, Jamaica, and South Africa made history in the beauty industry for simultaneously holding the titles of five of the world's top beauty pageants. Professor Noliwe Rooks observed that the display of Black women as the standard of beauty in these competitions could influence other communities globally and “say[s] something about a level of comfort of black skin in the public.” (Zaveri 2019). Three out of the five Black women who hold titles have natural hairstyles, and they are Miss Teen USA, Miss USA, and Miss Universe, representing the United States and South Africa.

Only in the United States has the state (at the subnational level) sought to prevent hair discrimination. In February 2019, New York City made history as the first locality in the United States to establish legal guidelines that prohibited hair discrimination. The New York City Human Rights Law (“NYCHRL”) prohibits grooming or appearance policies that limit or restrict natural hairstyles or hairstyles closely associated with people of African descent. The United States is a federal constitutional republic which means that power is split between the national government and state legislatures whom the people elect. The executive branch is independent of the legislative branch. In contrast, South Africa is a parliamentary republic that is a government system in which the executive branch derives its legitimacy from the legislative branch. However, both the United States and South Africa have federal systems, which allow power to be distributed from the national to sub-national level and minimize institutional constraints.

Despite the fact that South Africa and the United States have similar histories and forms of government, there is variation between the two in terms of policy outcomes on hair discrimination. South Africa has a consensus-based proportional representation (“PR”) system. Arend Lijphart argues PR systems tend to more accurately reflect the will of voters because “the

basic aim of proportional representation is to represent both majorities and minorities, instead of overrepresenting or underrepresenting any parties” (Lijphart 2012, 130). Thus, political scientists might expect to see hair anti-discrimination laws in a consensus-based PR system because the system is designed to force groups to compromise. Larger parties require the support of smaller parties to form a majority, and therefore smaller parties representing minority groups are better positioned to influence policy.

On the other hand, the United States has a majoritarian system of government. Lijphart contends that “the majoritarian model concentrates political power in the hands of a bare majority--and often even merely a plurality instead of a majority” (Lijphart 2012, 2). Therefore, political scientists might not expect to see hair anti-discrimination laws in a majoritarian system because it is less likely for laws to favor minority groups. The literature suggests that pro-minority rights policies like anti-hair discrimination laws would be harder to pass in United States, but they have at the subnational level. According to the literature, anti-hair discrimination laws are more likely to pass in South Africa because of the consensus system design, and the fact that Black people are a majority; however, it has not.

The central task of this thesis is to explain the puzzle of why Black people in the United States are able to get cultural protections for natural hair despite their minority status but Black people in South Africa are not able to despite their majority status. In Chapter 1, I consider three possible explanations from the literature on institutions, social movements, and cultural hegemony to explain why cultural rights of Black people are being protected by legislation in the United States, where Black people are a minority but not in South Africa, where Black people constitute a majority. (1) Although institutions exist in both countries, they can have varying degrees of institutional performance based on socioeconomic factors and synergetic or

competing informal institutions. (2) The literature on social movements argues that group size, resource mobilization, issue framing, political opportunity structures, and collective identity influence collective action outcomes. (3) The literature on cultural hegemony hypothesizes that outcomes are rooted in the construction of social norms in society.

In Chapter 2, I provide a brief overview of my data and methods which is informed by the literature review. Since institutions matter for this research, I compare laws and policies in both the United States and South Africa. Furthermore, I gather insight into socioeconomic inequalities through interview data, government documents, and statistical data within both countries which affect the performance of institutions. In regard to social movements and collective action, I primarily rely on interview data, press releases, and media coverage to understand which factors led to the success of the CROWN Act passing in New York at the state level. Additionally, I draw from my interview data to highlight the cultural significance of the CROWN Act for Black women and Black women's group consciousness.

In Chapter 3, I unpack the history of New York institutions and provide context for hair discrimination reforms at the local level and state level. A combination of progressive and high performing institutions, powerful and invested Black leaders in the public and private sector, allies in the community and government, and cultural awareness of natural hair led to hair discrimination at the local and state levels. In the case of New York, local institutions strengthened the political opportunity structure by modifying local human rights law which facilitated the passage of the CROWN Act at the state level.

In Chapter 4, I explore the relationship between formal and informal institutions and compare South Africa's Human Rights Commission to the New York City Commission on Human Rights. A combination of weak institutions, lack of economic power, and the absence of

Black women in senior leadership positions in the private sector contributed to why we do not see protections for natural hair in South Africa. However, South Africa is currently undergoing promising cultural trends on natural hair which may create new political opportunity structures and coalitions for anti-hair discrimination laws.

In Chapter 5, I revisit the explanations offered by the literature on institutions, social movements, and cultural hegemony and draw conclusions about their relevance for this comparative case study. The issue of hair discrimination in the United States and South Africa bring us closer to understanding the tensions between group rights and individual rights in multicultural societies. This study opens the door for more exploration into cultural protections for minorities in other liberal democracies. Furthermore, the policy outcomes achieved at the subnational level in the United States can be scaled to the federal level.

LITERATURE REVIEW

In the field of political science, there is an ongoing debate about the relevance of culture and history in determining political outcomes for disadvantaged groups. Several schools of thought provide insights into why the cultural rights of minority groups are being protected in some liberal democracies and not others. This literature review has examined the role of institutions, social movements, and cultural hegemony on political outcomes for minority groups in liberal democracies.

Institutions: the rules of the game affect the passage of legislation

Institutions matter because they determine the course of action political actors can take to produce policy outcomes. The literature on democracy and liberalism established democracies come in different forms with institutions that are uniquely shaped by culture and history. In his book *Making Democracy Work*, Robert Putnam defines institutions as “games in extensive form” in which actors’ behavior is structured by the rules of the game” (Putnam 1993, 7). The rules of the game are influenced by several factors which subsequently determine the success rate of policy outcomes. In analyzing how liberal democracies respond to the tensions between group rights and individual rights, the question is not whether institutions exist, but rather how well they perform in response to societal demands.

One way political scientists measure the success of policy outcomes is through institutional performance. Institutional performance is based on how well an institution, which houses political actors, can respond to the needs of its constituents. Putnam draws our attention to three models for explaining differences in institutional performance: (1) institutional design, (2) socioeconomic factors, and (3) sociocultural factors. Institutional design deals primarily with structural and procedural contrivance, referring to the methods of governance (i.e. majoritarian

or proportional representation). Secondly, socioeconomic factors can influence how effective a democracy is because effective democracy is closely associated with socioeconomic modernity (Putnam 1993). Finally, sociocultural factors are important to consider because political scientists examine whether or not there is a civic culture that's been established to make people inclined to participate in democracy. Based on Putnam's arguments, we might expect democracies with high levels of socioeconomic inequality to have lower institutional performances.

While Putnam offers three models to explain different policy outcomes across formal institutions, informal institutions also influence institutional performance. Informal institutions, which are defined as "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels," (Helmke and Levitsky 2004, 727) can sometimes have a complementary relationship with formal institutions and can increase formal institutional effectiveness. However, in countries where transparency levels are low, corruption can limit the population's ability to receive government resources and exacerbate conditions of inequality. Helmke and Levitsky (2004) describe weak institutions such as corruption that lead to divergent outcomes as competing because they "structure incentives in ways that are incompatible with the formal rules: to follow one rule, actors must violate another" (Helmke and Levitsky 2004, 729). Given the precarious relationship informal institutions have with formal institutions, we might also expect that they shape outcomes and therefore paying attention to the existence of formal institutions alone is not enough.

Political scientists have observed weak institutions through neopatrimonialism, which is prominent in many postcolonial African states. In its most basic form, neopatrimonialism is defined as a postcolonial system of patron-client relations. In their article "Neopatrimonial

Regimes and Political Transitions in Africa,” Michael Bratton and Nicholas van de Walle discuss regime types and their influence on political outcomes. Bratton and van de Walle (1994) argue that neo-patrimonial regimes blur the lines between public and private interests.

Neopatrimonialism reduces the vital function of government bodies to offices that return “personal favors, both within the state (notably public sector jobs) and in society (for instance, license, contracts, and projects)” (Bratton and van de Walle 1994, 458). Some social scientists suggest that civil society can reduce the monopoly of state power, which would help curb corrupt governance. In his report “State, Civil Society, and the Reconfiguration of Power in Post-apartheid South Africa,” Ran Greenstein argues that civil society can either serve as a corrective mechanism to the government or as a radical alternative to government. Helme and Levitsky would describe the relationship between civil society and formal institutions as divergent but accommodating or as divergent but competing based on Greenstein’s analysis.

Institutions are about the rules of the game that shape both political opportunities and the behavior of political actors. In comparative politics, political scientists generally look to see if institutions are present. However, the existence of formal institutions must be qualified by their institutional performances. Institutional performance can be reduced or enhanced by informal processes which matters for policy outcomes. Overall, the literature on informal and formal institutions supports the finding that corruption reduces government efficacy and leads to less redistributive policies for disadvantaged groups.

Social movements: mobilization of key groups and actors affect the passage of legislation

Social movements matter because they influence the mobilization of key groups and actors in the political arena. The literature on social movements offers several explanations for

factors that influence policy outcomes which include group size, resource mobilization, issue framing, political opportunity structure, and collective identity. A combination of these factors may explain why some social movements excel at obtaining favorable policy outcomes while others fail.

Group size can either be a detriment to collective action if the group is too large or an aid to collective action if the group is small enough. Rational choice theorists offer insights into how groups respond to collective action based on their self-interests and group size. In his essay *The Free Rider Problem*, Mancur Olson challenges the conventional wisdom within political science that suggests groups will act collectively in order to further their common interests. Olson argues that “the rational individual in the large group in a socio-political context will not be willing to make any sacrifices to achieve the objectives he shares with others...” (Olson 2015, 64). unless there are ‘selective incentives’ involved that could persuade them to pursue a collective interest. The collective action problem differentiates political outcomes among groups based on their size. For large groups, the theory suggests that the rational individual will want to receive the benefit of the collective good without paying the cost or engaging in the action due to the absence of kinship and strong ties. Olson refers to this dilemma as the free rider problem because rational individuals in large groups lack incentives to pursue collective action and will instead “free ride” off the efforts of more invested members in the group. For small groups, the theory contends that collective action occurs because of strong ties among group members and evidence of kinship. Based on the relationship between group size and selective incentives, we might expect minority groups to have better outcomes than groups that constitute a majority given the free rider problem in liberal democracies.

Resource mobilization can influence the means by which social movements get their legislative agendas in the political arena. Sociologists John McCarthy and Mayer Zald agree with Olson that collective action is not as easily achievable as political scientists once claimed and developed a theory that focused on how collective actors could mobilize internal and external resources to achieve their goals, thus avoiding the rational self-interest dilemma. McCarthy and Zald (1977) hypothesize that “[a]s the amount of discretionary resources of mass and elite publics increases, the absolute and relative amount of resources available to the SMS increases” (McCarthy and Zald 1977, 1224). McCarthy and Zald are primarily focused on the ways in which social movement organizations (SMOs) interact with other SMOs, businesses, and governments etc to improve their organizational efficacy and draw comparisons across social movement industries (SMIs) and social movement sectors (SMS). They care about the aggregation of resources (money and labor) and the control groups outside of the social movement exercise over the flow of these resources toward or away from SMOs.¹ In advancing their resource mobilization argument, McCarthy and Zald purport that organizational structure has a greater impact on collective action than cultural or historical factors. Since the flow of resources matter, we might predict that SMOs with accessible networks and larger budgets will have more favorable outcomes than SMOs who lack adequate sources of funding and access to networks with resources.

Issue framing matters because it can create new worldviews which transforms the political arena. Scholars have found that social movements benefit from the incorporation of the frame alignment processes into their agendas. Frame alignment is a constructionist approach to

¹ Sociologists who study resource mobilization have identified five types of resources social movement organizations need to be successful. They are material resources, human resources, social-organizational resources, cultural resources, and moral resources. See Crossman (2020). Scholars in the field also contend the need to analyze collective action outside of formal SMOs. See Piven and Cloward (1991).

producing meaning that involves social movements and their supporters and opposition. Social movements are said to be successful when they are able to align their ideologies and beliefs with those of their supporters, thereby building solidarity between both parties. Snow et al. (1986) identify four types of frame alignment processes that aid social movement organizations in their ability to induce collective action among participants successfully: (1) frame bridging, (2) frame amplification, (3) frame extension, and (4) frame transformation. Frame bridging involves connecting two or more “ideologically congruent but structurally unconnected frames regarding a particular issue or problem” (Snow et. al 1986, 467). The goal of frame bridging is to reach “untapped and unmobilized sentiment pools” (Snow et. al 1986, 468) that can be used to increase participation in collective action. Frame amplification refers to the added emphasis social movement organizations can place on a phenomenon. Frame extension is similar to frame bridging in its intended effect, which is to broaden its target audience to include potential beneficiaries and conscious adherents. Snow et al. argues that frame transformation is crucial for social movement organizations that seek to alter sociopolitical structures. There are two types of frame transformation: domain-specific transformations such as hair discrimination not being viewed as race discrimination but being reframed by legislators as unjust and a form of racial discrimination and global interpretive frame transformation such as race being treated by legislators as fluid and immutable rather than fixed and biological. While Snow et al. focus on grievances and ideological framing, they neglect the role identity formation plays in collective action. Since issue framing can propel a movement or hinder their success, we would expect organizations that are mission driven and able to propose a change in worldviews to have more success than organizations that lack such qualities.

Political opportunity structure emphasizes the changing relationships among political elites and potential for new coalitions. Sidney G. Tarrow identifies holes in the collective action arguments presented by Olson and McCarthy and Zald in his book *Power in movement: social movements and contentious politics*. Tarrow finds that Olson fails to consider a theory of participation, explaining why thousands of people were striking and marching in the 1960s and 70s on self-interests other than their own. In response to McCarthy's and Zald's resource mobilization approach, Tarrow suggests that they ignore the fact that many social movements from the 1960s and 70s lacked formal organization initially and did not focus enough on the impact of grievances on collective action. The core of Tarrow's contribution to the social movement literature lies in his theory about political opportunities and threats. In chapter 8 of his book, Tarrow outlines the following dimensions of opportunity and threat that influence the successes and failures of social movements: (1) the attribution of opportunity or threat, (2) the availability of potential allies, (3) the formation of coalitions both on the margins of and within the policy, and (4) the framing of entire episodes of contention. The attribution of opportunity or threat involves regime types that may constrain collective action or create conditions that facilitate protest. The availability of potential allies and the formation of coalitions speak to the precarious nature of political alignments and contention between elites which can create opportunities for social movements to arise. Lastly, the framing of episodes of contention can set the foundation for the social movement's long term ideological pursuits and allow spin-off social movements greater access to the political sphere. In reference to the arguments advanced by Tarrow on political opportunity structures, we would expect successful social movements to build coalitions between marginalized groups and powerful leaders.

Collective identity is significant because of the shock value it creates in social movements. In their article “Collective Identity and Social Movements,” Francesca Polletta and James M. Jasper present compelling theories about the fluidity of collective identity formation in social movement cycles. They define collective identity as “an individual’s cognitive, moral, and emotional connection with a broader community, category, practice, or institution” (Polletta and Jasper 2001, 285). Polletta and Jasper (2001) argue collective identity is transformed by the four phases of protest which include the following: (1) the creation of collective claims, (2) recruitment into movements, (3) strategic and tactical decision making, and (4) movement outcomes. The creation of collective claims balances the desire to access decision-making spaces in the political arena with the desire for recognition of new identities and lifestyles. Social movements deploy a variety of strategies for recruiting members into the movement such as storytelling and stimulating “moral shocks” which serve to amplify pre-existing ties within a community and mobilize groups to act. Strategic planning and decision-making within social movements help cultivate collective identity through defining actions of protest. Polletta and Jasper emphasize that collective identities become “situational” through strategic and tactical decision-making based on the social movement’s target audience. They also find that the primary goal of social movements is to transform identities and build a strong collective identity which can result in backlash and the development of a countermovement. Given the importance of identity reconfiguration, we would expect successful social movements to embrace fluid cultural norms that allow more beneficiaries to be included in the collective identity.

The role of social movements goes beyond achieving a political agenda or desired outcome. Social movements give a citizenry the opportunity to participate in democracy by influencing the actions of political actors. Overall, the literature on social movements and

collective action focuses on formal organizations, ideological frameworks, and group demographics but fails to engage with cultural hegemony and how it may inhibit liberal democracies with majority Black populations from passing legislation that curbs racial discrimination.

Cultural hegemony: group consciousness affects challenges to the status quo

In order to understand why some groups take action while others do not, one must have a baseline understanding of the role norms play in enforcing cultural hegemony. In his book *The Cement of Society*, Jon Elster presents useful distinctions between rationality and social norms that can provide helpful insights into group behavior and group consciousness. Elster defines rationality as “conditional and future-oriented” (Elster 1989, 98) which means that certain conditions must be present in order for a particular outcome to be achieved. In contrast, he defines social norms as unconditional but not future-oriented meaning that they are subjected to change as the needs of the people who sustain the norms change. Elster further distinguishes social norms from rationality by suggesting “[m]ost social norms are simple to obey and follow, compared with the canons of rationality which often require us to make difficult and uncertain calculations” (Elster 1989, 100). Social norms require input from other people since they are partly sustained by their approval and disapproval. Additionally, social norms that reinforce the worldview of the ruling class can be detrimental to minority and disadvantaged groups living in socially stratified societies because they can lead to cultural erasure and lack of group consciousness.

The Black Consciousness Movement (“BCM”) in South Africa is an example of a countermovement to apartheid that influenced young people to take pride in their heritage and advocated for a total restructuring of South African society around Black culture. In his seminal

book *I Write What I Like*, Steve Biko (1978) defines Black consciousness as “the realization by the black man of the need to rally together with his brothers around the cause of their operation—the blackness of their skin—and to operate as a group in order to rid themselves of the shackles that bind them to perpetual servitude” (Biko 1978, 49). Biko (1978) attributes the need for Black consciousness to the debilitating conditions apartheid created for Black South Africans. In describing the psychological tolls of apartheid, Biko (1978) contends that “the black man has become a shell, a shadow of a man, completely defeated, drowning in his own misery, a slave, an ox bearing the yoke of oppression with sheepish timidity” (Biko 1978, 29). Not only did the apartheid state oppress Black South Africans, but it also wanted them to be content with their own oppression in an effort to maintain the status quo. Biko (1978) rejects a bilateral approach involving Blacks and whites to ending apartheid and instead advocates for self-determination. Self-determination is a core tenant espoused by the BCM and involves a radical restructuring of society around the dominant culture. For Biko (1978) it is only logical that “the culture by the majority group in any given society must ultimately determine the broad direction taken by the joint culture of that society” (Biko 1978, 24). Even though Steve Biko is recognized as the founder of the BCM in South Africa, his approach fails to acknowledge a critical constituency of the liberation movement: Black women.

When faced with generalizations about women, Black feminist theory compels us to ask the question “which women?” In her article “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics,” legal scholar Kimberle Crenshaw argues that single-axis frameworks, in which race and gender are treated as mutually exclusive, distort the experiences of Black women because they are multidimensional. An intersectional approach is required to understand how Black

women are affected by race-based and gender-based discrimination because antiracist and feminist discourses theoretically erase Black women. Black feminism rejects the notion that human behavior is determined by physiology and examines the complex ways in which gender and minority status influence the experiences of Black women by putting them at the forefront of conversations around racism, sexism, and class oppression. By not taking the multidimensional experience of Black women into consideration, feminist and antiracist scholarship reinforce the status quo and cultural hegemony of white supremacy. Based on the significance of social norms reinforcing hegemonic structures, we might expect to see marginalized groups at a disadvantage where those norms remain prevalent.

DATA AND METHODS

This research incorporated a qualitative and quantitative research design for a comparative study. Crowe et. al (2011) states that the purpose of implementing a case study approach to research is to explore complex, multi-faceted issues in their real-life settings. Case studies are useful for investigating an event or phenomenon in depth and within a particular context. Comparative case studies involve two or more cases and are useful for explaining how context influences the success of policy outcomes. Moreover, comparative case studies are useful for investigating causal questions and emphasize the relationship between interventions and outcomes.

In order to generate a good understanding of the cases and case context, I conducted interviews with Black women in senior leadership positions and Black government officials. Interviews are advantageous in comparative case studies because they can offer more insight into phenomenon and formal and informal processes which influence policy outcomes. The sampling method I adopted for interviews is non-probability sampling. Cornesse et. al (2020) provides the following justifications for employing non-probability sampling in a research study: “(i) that any sample examining a particular question will yield the same inferences, (ii) that the specific design of the sample, as related to the questions at hand, will produce conclusions that mirror the population of interests, (iii) that a series of analytical steps will account for any differences between the sample and the population, and (iv) that the particular combination of sample and/or analytic approaches will produce accurate population estimates” (Cornesse et. al 2020, 8). For the purpose of this comparative case study, this method of sampling was favorable since the goal of my thesis is to understand why natural hair protections emerged in the United States for Black people but not for Black people in South Africa. The demographic of interviewees is a particular

one because I selected candidates based on (1) their involvement in institutions and civil society organizations that regulate racial discrimination in the United States and South Africa and (2) their beneficiary statuses to legislation that protect Black women from hair discrimination.

Given the importance of the literature on institutions, my data collection included a comparison of laws and policies, data from organizations that study corruption and social inequality, and interviews with people to get their perspective on why an expected outcome does not come into fruition. In reference to the literature on social movements and cultural hegemony, I relied on demographic data, media coverage in the form of news articles, press releases, legal briefs, government budgets, and anonymous interviews which document the actions and viewpoints of key stakeholders in New York and South Africa.

In light of COVID-19 restrictions, subjects participated in remote semi-structured interviews that will last between thirty minutes to one hour on Zoom. Prior to the interview, I sent participants a consent form. This was a minimal risk situation because I spoke to legislators and government officials of the Human Rights Commissions in New York and South Africa who are often on public record but remained anonymous for the purpose of this study. Representatives from the CROWN Coalition and members of Black women's professional organization I interviewed were also anonymous, and I only made general references to their membership with organizations. For my USA/NYC participants, my interview questions aimed to explore the context of hair discrimination reforms in New York through institutions, coalition building, and cultural trends on natural hairstyles for Black women. For my South African participants, my interview questions sought to understand why South Africa did not adopt hair discrimination reforms from the perspective of government officials.

THE CASE OF NEW YORK

This chapter focuses on understanding the pre-existing conditions that allowed protections against hair discrimination to emerge in the United States and New York, where Black people are racial minorities. The CROWN Act's subsequent success in New York was primarily due to high institutional performance, women of color leadership among key community stakeholders, and the burgeoning cultural awareness Black people were developing about their hair on social media.

In this chapter, I explore the institutional and cultural legacies of New York and argue that they have facilitated the passage of anti-hair discrimination laws at the local and state levels. New York has the institutional capacity to enforce the majority of its laws, and Black leaders in the public sector have a vested interest in creating policy outcomes for disadvantaged groups. Additionally, New York's political opportunity structure benefitted Black women who occupy senior leadership positions in the private sector because they could use their economic power to advance hair discrimination legislation.

Before the CROWN Act ever existed, New York City's Human Rights Law ("HRL") protected natural hairstyles and legally classified hair discrimination as a form of race discrimination. I discuss the context of reforms to the HRL in light of the hair discrimination issue at the local level and state level. At the local level, Black women and women of color in the Commission on Human Rights acted as street level bureaucrats² and implemented legal guidelines for hair discrimination based on the city's broad interpretation of the HRL. In

² In their article "Toward managed flexibility: The revival of labour inspection in the Latin world," Michael J. Piore and Andrew Schrank define street level bureaucrats as government employees who "are governed by bureaucratic rules, which they tend to use instrumentally, rather than ends in themselves" (Piore and Schrank 2008, 10). I apply this conceptual framing to the actions of Black women and women of color in the NYCCHR since they issued legal guidelines to educate people on the HRL's scope.

chronicling the state's response to hair discrimination, I focus on the CROWN Coalition which mobilized key stakeholders in the Black community to lobby for the state of New York to adopt protections against hair discrimination in their version of the HRL. Moreover, I examine the cultural and political significance of the CROWN Act for Black women in senior leadership positions through interview transcripts and press releases.

A Brief Review of Institutions

Synergetic informal institutions and socioeconomic development have contributed to high institutional performance across the United States, and in particular New York. High institutional performance is significant because it sends a message that the government is capable of responding to societal demands. Transparency International, which measures corruption index levels among countries, ranks the United States #25 out of 180 countries with a score of 67 out of 100. A score closer to 0 indicates a country is highly corrupt while a score closer to 100 suggests a country is very clean. In regard to socioeconomic development, the World Bank reports the United States had a Gini coefficient of 41.0 in 2016. The lower a country's Gini coefficient is, the less inequality there is in the distribution of income among the population.

Another indicator of high institutional performance is public opinion from the citizenry. Gallup's public opinion data in 2018 showed that trust in the legislative branch was up by 40%, the highest it has been in nine years. Gallup controlled for factors such as partisanship and trust by each government branch and found an inverse relationship between trust and partisanship when Democrats controlled both chambers or when Republicans controlled both chambers. Additionally, trust in the Supreme Court has increased 4% since 2016 with 40% of Americans reporting they trust the Court a great deal/quite a lot.

However, New York's case of success becomes atypical when one considers that Black people's confidence in the courts to handle hair discrimination issues was not very high due to the court's narrow interpretation. Secondly, the democratic model in the United States is majoritarian, which, in theory, is not conducive to the protection of minority rights. I argue that the New York City Commission on Human Rights' groundwork in reframing racial discrimination's legal scope was a catalyst to the CROWN Act passing state-wide.

The phenomena of legal institutions propelling change in the United States is not new. The landmark Supreme Court case *Brown v. Board of Education of Topeka* is a primary example of a legal institution establishing legal justification for desegregation before the passage of the Civil Rights Act of 1964. While the courts have often been at the forefront of settling disputes between individual rights and group rights, they have poorly handled cases of hair discrimination at the national level.

In 2018, the Supreme Court rejected an appeal to review a claim of employment discrimination involving natural Black hairstyles. Chasity Jones was offered employment at Catastrophe Management Solutions (CMS) for a customer service position, but CMS rescinded the offer when she refused to cut off her dreadlocks. The Equal Employment Opportunity Commission (EEOC) submitted a complaint on behalf of Jones, arguing that the company's actions violated Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin. The Eleventh Circuit ruled that CMS's grooming policy did not violate federal civil rights law because hair is not an immutable characteristic of a protected class. In a press release by the NAACP Legal Defense Fund, Sherrilyn Ifill said that "A Black hair natural hairstyle is not a relevant factor for determining whether a person is able to do a specific job. Chastity Jones' case is at the heart of

whether Black people can compete in the workforce. We are disappointed that the Supreme Court has denied Ms. Jones the chance to intervene and further pursue the case, halting a critical opportunity to address employment discrimination” (NAACP Legal Defense Fund 2018). The courts have chosen to disregard the disparate impact grooming policies have on Black employees and students. In turn, cases of hair discrimination have limited relief at the national level.

I choose to focus on hair discrimination relief at the state and local levels because the federal government has limited legal recourse for group rights. The New York City Commission on Human Rights’ historical legal guidelines treated hair discrimination as a form of race-based discrimination during a time when statewide protections against hair discrimination in the United States did not exist yet. Political scientists should analyze the Commission’s landmark decision in a fashion similar to *Brown v. Board of Education* because it transformed the political landscape for group rights and inspired a movement against hair discrimination across states.

New York’s Human Rights Agenda

The New York City Commission on Human Rights is a city agency tasked with enforcing the Human Rights Law, Title 8 of the Administrative Code of the City of New York, educating the public, and fostering positive community relations. The Commission is divided into two major bureaus: Law Enforcement Bureau (“LEB”) and Community Relations Bureau (“CRB”). The LEB is responsible for the intake, investigation, and prosecution of complaints alleging violations of the Human Rights Law. In contrast, the CRB provides public education about the Human Rights Law and fosters cross-cultural dialogue among New York City’s many diverse communities.

Between 1965 and 1983, New York City strengthened its Human Rights Law and the Commission’s jurisdiction through successive amendments to cover disability, gender

discrimination in public accommodations, religious observances in employment, gender and marital status in housing accommodations and commercial spaces, and age in housing and public accommodations. The New York City Human Rights law continued to progress along the avenues of sexual orientation, gender identity, bias profiling, employment discrimination, disability, etc., throughout the 1990s and into the 21st century. Today, the NYCCHR has 13 core focuses which include but are not limited to: Business and Discrimination Protections under the NYC Human Rights Law, Discriminatory Harassment, and Women's Rights.

Context of Hair Discrimination Reform Locally

Why did hair discrimination reforms happen in New York City at the local level? Hair discrimination cases were becoming more publicized in New York City as well as across the United States. In 2018, Black students at Success Academy Charter school in New York City protested grooming policies that banned headscarves and headwraps (Zimmerman 2018). In January 2019, an African American news anchor spoke out about being fired from her local news station because her natural hair was labeled “unprofessional” by her employers (Santi 2019). These events spread like wildfire on social media and raised awareness of how schools and employers police Black bodies through grooming policies. Street level bureaucrats at the NYCCHR decided to take collective action after paying close attention to the rise of hair discrimination cases in New York and across the United States through social media.

Back in late 2018, we were looking around at the field. There were lots and lots of these stories. Many of them were circulated through social media and in broadcast media of folks being denied employment opportunities or opportunities for advancement. Or in school contexts, folks being told they couldn't participate in graduation or enroll in kindergarten because they were wearing their hair in natural styles (Anonymous

Participant #2. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020).

A senior official on the Policy Team commented that the Commission conducted a thorough investigation regarding hair discrimination claims in New York City before releasing their legal guidelines. The examples of discrimination the Commission cited came from cases they had resolved in the past and pending investigations underway. Additionally, the Commission reached out to leaders in other civil society organizations who were passionate about ending hair discrimination.

We had conversations with folks we knew at the ACLU who cared about these issues, conversations with folks at the NAACP LDF who cared about these issues, and we were mindful of making sure that we spoke to the academics who had been leading in this field. There's a professor named Wendy Green who teaches at Drexel Law School in Philly, and she had written extensively about this, and her research was so helpful in terms of building the actual guidance itself. We talked to a woman named Gillian Scott Ward, who had made a film called "Back to Natural" about the history of hair discrimination, and she had come in and screened the film for our team. We spoke with a woman named Diane Bailey, who runs a natural hair collective. She's a stylist herself and runs a network of folks who style Black hair, and we wanted to get her perspective as well because she had participated in different state licensing conversations at the New York state level. We wanted to make sure our terminology was on point and that we weren't missing any of the issues (Anonymous Participant #2. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020).

The Commission emphasized the importance of being aware of the cultural awakening people witnessed across the United States, but in particular, New York City. In New York City, members of the natural hair community could come together through events like CurlFest, which is committed to celebrating and affirming the magic of natural beauty, and promote their local businesses in the Black hair industry. Social media platforms like Twitter and YouTube facilitated dialogue among Black women who started their natural hair journeys and offered tips and tricks that others could follow. Furthermore, the internet contributed to the rise of Black entrepreneurship because members of the natural hair community realized that Black women needed hair products that were safe and helpful to their hair care regimens. Dr. Jeffrey Milton S. Hershey Medical Center reports that 73% of African-American women have experienced hair breakage due to straightening chemicals (Scott-Ward 2019). According to the documentary film “Back to Natural” by Dr. Gillian Scott-Ward, sales of chemical relaxers dropped 36.6% from 2012-2017 (Scott-Ward 2019). Sales of natural hair styling products subsequently increased 26.8% from 2013-2015 at a \$946 million value (Scott-Ward 2019).

Reform Response from NYC and NYS

Street level bureaucrats in the NYCCHR identified a political opportunity to make the city’s HRL even more progressive by creating legal justification for hair discrimination to be classified as race discrimination. In February 2019, the NYCCHR made history with its legal enforcement guidelines on hair discrimination. The Commission’s general policy “affirms that grooming or appearance policies that ban, limit, or otherwise restrict natural hair or hairstyles associated with Black people generally violate the HRL’s anti-discrimination provisions.” The city’s HRL covers hair discrimination in employment and public accommodations within the private and public sectors. Regarding hair discrimination in employment, the Commission

prohibits discrimination in businesses with four employees or more. To show there is evidence of disparate treatment under the HRL, an individual “must show they were treated less well or subjected to an adverse action, motivated, at least in part by their membership in a protected class.” Examples of violations in employment include the following:

(1) A grooming policy that prohibits twists, locs, braids, cornrows, Afros, or fades which are commonly associated with Black people.

(2) A grooming policy requiring employees to alter the state of their hair to conform to the company’s appearance standards, including having to straighten or relax hair (i.e. use chemicals or heat).

(3) A grooming policy banning hair that extends a certain number of inches from the scalp, thereby limiting Afros.

The Commission highlights the following examples of discrimination in employment that would trigger a review of the Human Rights Law:

(1) Forcing Black people to obtain supervisory approval before prior to changing hairstyles

(2) Requiring only Black employees to alter or cut their hair or risk losing their jobs

(3) Telling a Black employee with locs that they cannot be in a customer-facing role unless they change their hairstyle

(4) Refusing to hire a Black applicant with cornrows because her hairstyle does not “fit” the image the employer is trying to project for sales representatives

(5) Mandating that Black employees hide their hair or hairstyle with a hat or visor.

The Human Rights Law prohibits discrimination in most public, private, and charter schools. Examples of discrimination in schools include the following:

- (1) A private school has a policy prohibiting locs or braids.
- (2) A public school athletic association prohibits a Black student athlete with locs from participating in an athletic competition because his hair is below his shoulders but allows white student-athletes with long hair to tie their hair up.
- (3) A charter school informs a Black student that she must change her Afro because it is a “distraction” in the classroom.
- (4) A children’s dance company requires girls to remove their braids, alter their Afro, and only wear a “smooth bun” to participate in classes.
- (5) A nightclub tells a patron she is not welcome because her natural hairstyle does not meet their dress code.

The City of New York laid the groundwork for hair discrimination reforms to reach the state level and bolstered the work of civil society organizations, which mobilized key stakeholders in the Black community across the state. In July 2019, Governor Cuomo signed S.6209A/A.7797A into law, amending the state’s Human Rights Law and Dignity for All Students Act. The bill amends section 292 of the Human Rights Law and section 11 of the Dignity for All Students Act. It expands on definitions of race to include “traits historically associated with race, including but not limited to hair texture and protective hairstyles.” Before New York adopted protections for hair discrimination in their version of the CROWN Act, the NYCCHR established precedent for anti-hair discrimination laws with their legal guidelines which strengthened the political opportunity structure for state-wide reforms.

Why the Reforms Were Successful

The Commission’s landmark legal guidance on hair discrimination served as a template for other legal institutions to adopt similar policies in their jurisdictions. The folks at the

NYCCHR recognized that not everyone possessed the same level of awareness on hair discrimination as a form of racial discrimination and wanted to provide as much context as possible.

The draft itself was mindful of making sure we didn't just jump into this. We were mindful of making sure we had a historical discussion to provide context because I think we recognized that not everyone would recognize the importance of the issue and that particularly if you're not someone who's been impacted by this, you might be like "what is that? Is that even a thing?" Additionally, we wanted to make sure that if other jurisdictions wanted to do something similar, that they could cite all of the stuff we were referencing (Anonymous Participant #2. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020).

The Office of the Chair credits Carmelyn P. Malais, commissioner of the NYCCHR, with being enthusiastic about releasing legal guidance on race discrimination, given their field observations. The importance of having senior leadership behind policy initiatives such as this will become more apparent when I unpack the CROWN Coalition's origin story in the next section. In the Commission's first resolution of a hair discrimination case, Commissioner Malais remarks that "Releasing our legal enforcement guidance on hair discrimination, which built on the efforts of advocates, lawmakers, and scholars, was one of the steps we have taken to dismantle institutional racism and provide momentum for other jurisdictions to follow" (The City of New York 2019). The New York Human Rights Law is one of the most progressive laws in the nation, and the NYCCHR had a lot of flexibility in interpreting the scope of the law. "As local human rights agencies go and as much as we complain about our budgets and our limitations, we are larger and more well-funded than a lot of similar agencies across the country.

So understanding the limited capacity that they have, we wanted to make sure that we produce something that they could very easily replicate” (Anonymous Participant #2. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020). The presence of institutional efficacy, the leadership of women of color, and cultural awareness allowed New York City to become a role model for other legal institutions across the United States and amplify the CROWN Coalition’s grassroots movement. The Commission created a framework that equated hair discrimination with race discrimination and showed how this legal classification could work in practice.

Before statewide protections for natural hairstyles emerged in New York, the NYCCHR encouraged employers and other covered entities to evaluate existing grooming or appearance policies, standards, or norms relating to professionalism to ensure they are inclusive of historically marginalized communities’ racial, ethnic, and cultural identities and practices as a best practice. In their legal guidelines, the Commission further recommends that public and private schools assess any workplace preparation programs geared toward helping students find employment to ensure that they do not intentionally or inadvertently send the message that natural hair or hairstyles associated with Black communities are “unprofessional,” “messy,” or “unkempt.” The level of responsibility an entity must accept for perpetuating negative racial stereotypes surrounding hair varies based on their size and credibility within a given community.

During the conflict resolution process, the Commission adopts a restorative justice approach to addressing the harm caused to the complainant and rectifying the impact of discrimination on the community. They define restorative justice as “an approach to acts of bias and discrimination that centers the experience of the harmed person and involves all stakeholders to decide what should be done to repair harm, create accountability, and reduce the likelihood of

future harm.” The commission can order civil penalties of up to \$250,000 on defendants that have violated the Human Rights Law and there’s no limit on damages. The Commission can also request internal policy changes, rehiring, and racial sensitivity training. An example of the Commission’s restorative approach in handling discrimination cases is evinced by the Sally Hershberger Salon and Sharon Dorram Color settlement. This case inspired the City to announce their legal guidelines on hair discrimination because a Black female employee was being unfairly discriminated against based on the company’s grooming policy. One of the agency attorneys at the NYCCHR had the following to say about the Hershberger case:

That case was interesting because we had a lot of evidence in that case. Sometimes in race discrimination cases, because of the nature of micro-aggressions and the fact that it isn’t a blatant act of discrimination, sometimes there are no witnesses, it’s hard to prove what happened. In the Hershberger case, we had a lot of evidence of different treatment of Black employees based on their hairstyle. The issue there was that there was a policy put in place that all employees were supposed to pull their hair back into a ponytail if their hair was over their shoulder. The reason for the policy, based on the testimony of the complainants, was to target the Black women who wear their natural hair. Then there was also different enforcement of the policy for Black employees. Black employees were targeted for the enforcement, whereas non-Black employees who had straight hair or didn’t wear their natural hairstyles, were not told to abide by the policy. So you would have the Black receptionists, in particular, who have their hair in various styles: box-braids, big curls, others had weaves. So they were the face-fronting staff. We had text messages that were sent from the owner to their supervisor complaining about these receptions not representing the image of the salon. This is a salon that is upscale with a

majority white clientele, with a majority white staff. One of the comments was that the complainants “belonged more in Harlem than the Upper East Side.” It was very clear from the evidence we had that there was discriminatory enforcement of the policy. That helped a lot in being able to get some of the relief we were able to obtain because we had such clear evidence of discrimination. Once the respondents realized that we had a lot of evidence of discrimination, they decided to partake in the reconciliation process instead of taking the matter to court (Anonymous Participant #8. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

Racial discrimination cases like the Hershberger cases are not the norm. In fact, legal scholars have openly criticized the burden of proof courts require to find evidence of racial discrimination. The NAACP Legal Defense Fund’s amicus brief to the Supreme Court emphasized in order “to fulfill its mandate, courts should interpret Title VII expansively to reach every dimension of a person’s racial identity” (NAACP Legal Defense Fund 2018). The Commission’s holistic and expansive approach to viewing the impact of grooming policies on Black women’s livelihoods underscores the importance of incorporating the tenets of Black feminist theory in their review of racial discrimination cases when Black women are being harmed. A supervising attorney at the NYCCHR spoke in great detail about the process of a case that does not reach a settlement without court:

If we can’t settle the case, it goes to trial at an administrative court and that looks like typical litigation, it involves formal discovery, document demands, depositions, etc. Then there’s a hearing before a trial judge. That judge then issues a recommendation of what he or she thinks should be based on the evidence, then that goes to our commissioner who is the final say at the administrative stage. She then issues an order. She might adopt

what the judge recommended in terms of monetary or non-monetary relief, or she might adjust it in some way. Let's say she thinks it should be more money for the plaintiff or less. Or she might think non-monetary relief should be taken as well. Once she issues her order, that is a binding order and if we reach a settlement, that is also a binding order.

Then that comes back to us to enforce that order to make sure that respondent does what they say they're going to do, or what they've been ordered to do (Anonymous Participant #7. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

The NYCCHR is well-funded enough to have its own administrative court which allows them to resolve hair discrimination cases outside of the federal court system. According to the Report of the Finance Division on the Fiscal 2021 Preliminary Plan and the Fiscal 2020 Mayor's Management Report for the Commission on Human Rights, the NYCCHR's expected budget is \$14.3M for 2021 (Singh and Wright 2019). The report notes that the Commission has received an increase of \$1.5M in funds between 2018 and 2020 (Singh and Wright 2019). The significance of resources in regard to institutional efficacy is important to highlight with the case of the NYCCHR. However, it is also equally important to note women of color's senior leadership of the Commission because they influence how the budget is spent and ultimately decide the terms of resolution. The Commissioner of the NYCCHR is a woman of color, and her Deputy Commissioner is a Black woman. Furthermore, Black women and women of color are represented across departments such as the Legal Enforcement Bureau and Community Relations Bureaus which play crucial roles in educating the community about the Commission's policies.

The way the Commission resolves hair discrimination cases also varies based on the size and status of an organization. The Hershberger case involved a high-profile hair salon, but the Commission also receives allegations of hair discrimination involving smaller mom and pop

stores. The supervising agency attorney highlighted the nuances of these issues as it relates to the Commission's restorative lens:

If the respondent is a small entity that is not as sophisticated or maybe not represented by counsel, then we might adjust the way we approach. We might try and see if we can get some money for the complainant, but it's going to be a smaller amount. Or we might try and focus on the non-monetary piece. We might say to ourselves that these are unsophisticated folk, they don't understand the law in NYC. They don't get why this is illegal and they don't get why it's wrong. So education becomes a big part of that. We try to make sure that they require training on NYC human rights law. We might, if we can make them attend some kind of unconsciousness bias training or training on the history of race against Black people in this country if we have a sense that they just don't get it based on their life experiences. We might facilitate some type of apology. Sometimes that means a lot to the complainant. So we look for different types of ways. We might make them do community service. We've done that with small individual respondents. We try to be very individualized in our approach in these cases and try different ways to resolve things (Anonymous Participant #7. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

The literature underscores the importance of functional institutions and informal practices that are not divergent from formal processes. The success of the CROWN Act in New York can be attributed, in part, to the high functionality of the NYCCHR and their work on framing the issue of hair discrimination as a form of race-based discrimination according to the law. The NYCCHR's legal model can be scaled to the federal level through Title VII and enforce protections against hair discrimination in the courts. While the courts can be slow to change the

law, states and local municipalities have the capacity to speed up the process which I discuss further in the next section about coalition and power sharing.

Coalitions and Power Sharing: Black Women as the Head Bosses in Charge

Collective action and the mobilization of civil society organizations matter in the case of New York because they contributed to the rise of a national movement to end hair discrimination. Black women in senior leadership positions were able to take advantage of political opportunity structures, exercise control over the flow of resources, and utilize their expansive social networks to influence policy outcomes. Furthermore, the fact that Black women are represented in the public and private sectors allowed them to consolidate their political and economic power in the political arena.

While the NYCCHR began a localized effort to redefine race discrimination under NYC's Human Rights Law, the CROWN Coalition started a social movement to get state governments to adopt legal protections for natural hairstyles. The CROWN Coalition is an essential factor to understanding why New York modified its Human Rights Law to include protections for natural hair. The CROWN Act, which stands for **C**reating a **R**espectful and **O**pen **W**orld for **N**atural Hair, is designed to prohibit race-based hair discrimination in employment and educational institutions. Similar to the NYCCHR's interpretation of the HRL, the CROWN Act also protects natural hairstyles commonly associated with people of African descent such as braids, locs, twists, or Bantu knots. The CROWN Coalition advocates for states to include natural hair styles under their existing legal protections against race discrimination. Currently, seven states have passed the CROWN Act and over 20 states have introduced the bill to the state legislature. Mississippi is the only state where the CROWN Act was introduced and not passed according to the Coalition.

Leadership matters in the long-term success of a coalition, and the women heading some of these organizations are powerful players in the political arena where decision-making occurs. The CROWN Coalition was founded in 2019 by the following organizations: Dove, National Urban League, Color of Change, and Western Center on Law and Poverty. Unilever is the parent company of DOVE, whose mission is to help the next generation of girls raise their self-esteem and reach their full potential through innovative beauty products and campaigns. Esi Eggleston Bracey serves as the Executive Vice President & Chief Operating Officer of Personal Care North America for Unilever. As a Black woman overseeing a \$5B portfolio of brands, Esi is a fervent supporter of the CROWN Act and told xoNeocolle magazine the following in an interview: “I’ve been in corporate America for nearly 30 years. When I came into corporate America, I did feel the pressure to conform. I wore a bob and a perm and straight-up little glasses, and I wanted to fit in and blend in. And then I realized that by doing that, I was perpetuating for all what that standard was. So I challenged myself to break out of that” (Honroe 2020).

Trusted actors in Black community-based organizations gave the CROWN Coalition legitimacy in the political arena. DOVE enlisted the help of JOY Collective, a brand marketing agency founded and led by Black women, to utilize their existing relationships with key actors in the Black community and recruit the founding organizations of the CROWN Coalition. A senior manager at Joy Collective relays that “JOY Collective supports the CROWN Coalition’s efforts to continue bringing awareness to the CROWN Act. The CROWN Coalition currently has 80 total members who champion the CROWN Act and advocate for the bills passing. We work with various members for events and initiatives that bring awareness to the movement” (Anonymous Participant #12. Email message to author. January 21, 2021).

Esi is not the only Black woman in a senior leadership position among the CROWN Coalition. The National Urban League (“NUL”) has three Black women in senior leadership positions. According to the Quick Facts section of their website, NUL’s mission is “[t]o enable and empower African-Americans and others in underserved communities to achieve their highest human potential and secure economic self-reliance, parity, power and civil rights.”³ Color of Change has four Black women in senior leadership positions. Color of Change’s mission is to influence decision-makers in corporations and government to adopt policies that lead to a more human and less hostile world for Black people in America. Finally, Western Center on Law and Poverty (“Western Center”) is headed by a Black woman. Informed by principles of economic and racial justice, Western Center fights in courts, cities, counties and in the Capitol for secure housing, healthcare, and a strong safety net for low-income California residents.

The networks Black women in leadership positions belong to have facilitated the passage of the CROWN Act at the state level and given credibility to DOVE’s corporate partnership with organizations that serve as pillars in the fight for racial justice within the Black community. In light of social movements like Black Lives Matter, there has been greater demand from the public for corporations to put their money where their mouths are in regard to social issues like divesting from private prisons. The fact that DOVE’s portfolio is managed by a Black woman is significant, and the organization took activism around the CROWN Act a step further by bringing other Black women to the table. For example, the Western Center on Law and Poverty gained its first Black woman president in 2019.

The president of Western Center went to college with Esi Eggleston Bracy, and they both belong to the Alpha Kappa Alpha (“AKA”) Sorority. Several of the women whom I interviewed

³“Quick Facts,” National Urban League, accessed April 22, 2021, <https://nul.org/quick-facts>

are members of AKA Sorority Incorporated, and the CROWN Coalition recognizes the AKAs as one of its 83 members. Additionally, Senator Holly Mitchell, who is considered one of the legislative champions of the CROWN Act in California, was the former executive director of the California Black Women's Health Project. The president of Western Center held the same title before she transitioned into another role. The networks of CROWN Coalition members not only overlap but also interact with each other.

In an interview with a Black woman who is at a top managerial position at DOVE, she describes DOVE's decision to form the CROWN Coalition as a logical progression of their commitment to diversity and inclusion in the beauty industry.

DOVE as a brand has always had a focus on really talking about beauty and not just the conventional 'blonde hair, blue eyes' but meaning that beauty comes in so many different forms. What's really great about the work around the CROWN Act is it's not just 'Oh, we need to do something for the Black community.' It's kind of taking what DOVE has always stood for, and we've always had diversity in our ads, but it's kind of cool taking the ethos of DOVE and really focusing it on a specific community that is underserved (Anonymous Participant #5. Interview by Michaela Shelton. Digital Recording. New York. December 22, 2020).

Furthermore, DOVE was beginning to define itself as an actionist brand which my interviewee describes in the following manner:

Another way we talk about it internally is we call it a 'brand say' versus a 'brand do.'

The "brand say" is "I'm working on a commercial right now on the CROWN Act."

That's saying--we're telling the public embrace natural hair, but a "brand do" is what are real actions that are gonna make real change. For us it's really about marrying the two.

Yeah, we could *show* Black women and *change* how we portray them in our ads, or we could take it a step further and create *real* action, and really make legislative change. It's one thing if it's DOVE is fighting hair discrimination and it's another thing when it's DOVE and the CROWN Coalition, and we have the backings of all these organizations. Once you have the four popular kids in the room, everyone else wants to join. Once you start seeing real change, people had just been asking "how can I become a member," but it was really getting organizations like Color of Change and National Urban League that had the roots within the Black community established before we were able to move forward" (Anonymous Participant #5. Interview by Michaela Shelton. Digital Recording. New York. December 22, 2020).

The CROWN Coalition was able to champion the CROWN Act and leverage its connections with Black legislators to make this law a priority at the state level. Founding members of the Coalition played a direct role in determining the legislative strategy for the CROWN Act. A senior official at DOVE said the coalition members were asking the following questions: "What are the states that we think will pass the CROWN Act? High, medium, low. What are the ones that are gonna be a heavy lift? What are the ones that are going to be impossible? Where should we invest our time? Probably every quarter or a couple times a year, we circle back to the legislative strategy, and then we set out goals for the year. In 2022, we want to get five more states, so we definitely have goals and milestones." (Anonymous Participant #5).

In reference to the legislative strategy, a representative from the Western Center says that it was important for the Coalition to advocate for the CROWN Act along multiple avenues. The official states:

I agree with a ‘both and’ approach because you want to be able to have the federal impact of having a national standard across the country is something that nobody on any issue should ignore. It allows for a different level of impact, but at the same time, you cannot ignore state-level advocacy because sometimes it’s easier and you can move things more quickly via the states while it takes more time for the federal legislation to come in. We needed to get the early victories where we can which is why California being the very first state to implement the CROWN Act was important. They have a saying that says “As California goes, so goes the nation” (Anonymous Participant #6. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 11, 2021).

In contrast, one of the women I interviewed suggests that the CROWN Act will need to go state by state and might become scaled at the federal level once there is a change in demographics.

I always look at New York and California in a way that is similar because they have policies that are inclusive of everybody from different backgrounds. Soon you’re going to see more and more diverse people. They even said eventually there’s gonna be multicultural and mixed-race people, and all of our hair is going to be different. Honestly, it’s the truth behind genetics. It’s like everybody’s gonna look different. There’s not going to be one dominant race anymore. No more white, Black, Asian--it’s just going to be a nice melting pot of everything. By the time that happens, maybe there will be a policy for everyone (Anonymous Participant #1. Interview by Michaela Shelton. Digital Recording. Los Angeles. December 12, 2020).

After California passed the CROWN Act at the statewide level, New York shortly followed in its footsteps. The CROWN Coalition celebrated the one-year anniversary of New

York passing the CROWN Act in a 90-minute virtual event. Senator Jamaal Bailey and Assemblywoman Tremaine Wright were the legislative champions for the CROWN Act in the New York state legislature. In the governor's official press release, Sen. Jamaal Bailey is quoted stating the following:

The way one chooses to wear their hair should be legally protected and supported - and in New York, now it will be. I thank Governor Cuomo for supporting and signing this bill that makes New York State a leader when it comes to ending racial discrimination based upon natural hair and hairstyles. I would also like to thank Assembly Member Tremaine Wright, Assembly Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins, and her Chief of Staff and Counsel Shontell Smith for their leadership. When leadership is diverse, it understands and is reflective of the communities. Thank you for protecting our crowns" (State of New York 2019).

Assembly Member Tremaine Wright reveals how the personal decision to wear one's hair in a natural style is political for Black women like herself. She proclaims the following:

As a Black woman who prioritizes equity and has worn my natural for 17 years, this bill is deeply personal for me. While chatting with racial and gender equity champion Adjoa B. Asamoah about the longstanding and problematic practice of hair discrimination, I recalled the action Congresswoman Marcia Fudge took during her tenure as Congressional Black Caucus Chair to confront new rules the army proposed to ban hairstyles that would disproportionately impact Black women. I determined a legislative fix was in order, and decided I'd carry the CROWN Act in NY. I am beyond proud to have done so, and for New York to be the first state to have had this historic bill passed in

both chambers. Special thanks to Speaker Heastie and Majority Leader Stewart Cousins for their leadership.” (State of New York 2019).

The leadership of Black women and Black men in New York’s state legislature contributed to the CROWN Act’s success. The CROWN Coalition intentionally framed the hair discrimination issue around the collective experiences of Black women which may explain why 12 of the Coalition’s 18 legislative champions are Black women. The fact that Black elected officials cared about the issue of hair discrimination and worked in the CROWN Coalition’s favor. Furthermore, involvement from NY-based organizations added fuel to the fire and elevated the CROWN Coalition’s advocacy work. In their 2020 anniversary press release, the Coalition celebrates a new partnership with YWCA White Plains & Central Westchester. “This is an exciting moment in time to celebrate women of color and put an end to years of discrimination against natural hair textures,” says Alejandra Y. Castillo, CEO, YWCA USA. “No one should be asked to hide what nature has gifted us, and as the Crown Act continues to fold into all layers of society, no one will. I commend The Crown Coalition for leading this charge, and California, New York, New Jersey and the other four states for recognizing the importance of this issue to raise the confidence and pride of women of color” (CROWN Coalition 2020). Other national partners with chapters in New York that advocated for the CROWN Act include but are not limited to National Council of Negro Women, AKA Sorority, NYC Black Women’s Political Club, and NYC Hispanic Chamber of Commerce.

Another factor that contributed to the success of the CROWN Act in New York was allyship from people of color and white people in positions of influence. Governor Andrew Cuomo’s justification for passing the CROWN Act derived from his ability to recognize how women of color have been marginalized because of their hairstyle and hair texture. Governor

Cuomo argues that “By signing this law, we are taking an important step toward correcting that history and ensuring people of color are protected from all forms of discrimination.” (State of New York 2019). One of the Coalition’s founding organizations got involved because of an ally. A representative from the Western Center on Law and Poverty notes that:

Jessica Bartholow was the staff member at Western Center who really got us involved with the CROWN Coalition, and she’s a white woman. She took the lead when people reached out and said “Hey, does Western Center want to be one of the founding members?” She knew from being such an ally as a white woman, “This is a no-brainer. We need to be involved in this. This is historic, and it’s important.” Having both women of color in those positions and allies who get it, who don’t need to be convinced about these kinds of issues, it’s important--those allies understanding to let women of color take the lead--but being supportive every step of the way. It was great we had someone like that on our staff who was the one who brought it to the table (Anonymous Participant #6. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 11, 2021).

Although Black people are minorities in the United States, many have become elected officials and prominent leaders in their respective fields that grant them varying degrees of influence. Black women who are in positions of power are able to utilize their networks to advance the CROWN Act in the political arena. While the work of allies also facilitated the passage of the CROWN Act in New York, Black women’s role in advancing the CROWN Act through the CROWN Coalition and raising awareness on hair discrimination cannot be understated.

Black Hair Is the New Cultural Wave

Black women have been the focal point on studies examining Black people's experiences with hair discrimination. Black people in New York have undergone a cultural awakening in regard to standards of beauty and professionalism that represent a departure from the civil rights era politics of respectability. In light of the CROWN Act's passage in New York and the CROWN Coalition's activism, I gathered the perspectives of several working professional Black women who were affiliated with local organizations in New York and organizations that are part of the founding members of the CROWN Coalition. These women spoke to the significance of the CROWN Act, issues of hair in the workplace, and inclusivity within their networks.

BLACK WOMEN ON SIGNIFICANCE OF CROWN ACT

Laws prohibiting hair discrimination are important for Black women because they give them a pathway to redress. Where the courts have been mishandling cases of hair discrimination, legislators have stepped up and established penalties for unfairly discriminating against Black people based on the texture of their hair. One of the legal scholars at the NYCCHR expressed admiration over the passage of the law and touched on the labor of sacrifice Black women perform in white spaces. She admits the following:

I honestly really resonated with not just the passage of the law but just how much energy there was around it nationally. I think it's because this is such an everyday issue that Black women or Black femmes or just anybody who wears their hair in natural styles has to go through and interact with. And something I'm working on right now is the legal enforcement guidance which really talks about how there are a lot of things that we have to do as Black folk that oftentimes is invisibilized. There's a lot of labor that we take on when we have to wear our hair a certain way or make sure we're presenting ourselves a

certain way in order to evade some of the stereotypical beliefs they have about us--our performance or our abilities--or just who we are in our characters (Anonymous Participant #3. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020).

A senior official at the NYCCHR echoed the ways in which Black people have to conform to Eurocentric beauty standards and the taxing toll it takes on their livelihoods. She makes the following claim:

People don't realize what it's like to live your life as a Black person and all the different ways that over time people have had to adjust themselves to accommodate other people's expectations or to avoid stereotypes other people created is just wild, and people don't realize how that is so much part and parcel of maintaining control over people is stigmatizing their culture and all these little things you do to send a message to them and everyone else that they're inferior (Anonymous Participant #2. Interview by Michaela Shelton. Digital Recording. New York. December 16, 2020).

Subsequently, the CROWN Act holds an added layer of significance for Black women because it allows them to access educational and employment institutions without having to compromise their culture or forsake their Blackness.

An official from NUL speaks to value of having positive and negative rights pertaining to racial discrimination. She declares the following:

I think laws are important. I think it's important to codify these things. I think while it's great that the CROWN Act exists in many states, we still need to continue pushing so that every state in the country has legislation like this. You don't want to be the person that moves from OH to TX, and you don't have the same protection. We need to do all we can

to make sure it's not just a legal change, but a cultural one as well (Anonymous Participant #9. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

For some Black women, the significance of the CROWN Act lies in the choices it gives Black women to express themselves. A representative from Western Center relays the value of self-determination in the following excerpt:

The empowerment piece is in the spirit of Kujichagulia, the 2nd principle of Kwanzaa meaning self-determination, it is about self-determination. How do we create space for that self-expression to lift up our hair as beautiful exactly as it comes out of our head--it doesn't need to be altered. But if you do choose to alter it in some way whether it's via braids or you straighten it, as long as you're treating it as the gift it is to you, and treating it well, and nurturing it, and making sure your scalp is healthy. It's still a political decision as to whether you decide to go natural or not. I just think every sister has to get their terms of style and figure out what works for them and change it up when you choose to. One thing I would also say is not feeling like you have to explain to folks when you change it up (Anonymous Participant #6. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 11, 2021).

Some Black women in positions of power are mindful of the fact that not all Black people--or Black women for that matter--have experienced hair discrimination. A senior executive manager at DOVE states that the CROWN Act is a stepping stone in the right direction:

I think for some people the impact is there. For others, it might be realized after the fact or later on, and it's kind of one of those things where it's not a problem until it is a

problem. If you haven't had any issues at work, it's kind of like "eh," but if you have...I think at the very least it's about starting these conversations. I do think it's a movement, so it'll gradually build, and the more we're talking about it, the more other people are gonna have to talk about it (Anonymous Participant #5. Interview by Michaela Shelton. Digital Recording. New York. December 22, 2020).

Black women showcase awareness of the CROWN Act's symbolism in the Black community as another step toward dismantling oppressive structures. However, Black women who live in states without protections against hair discrimination cannot fully experience the benefits of being in an environment where they are not penalized for their hairstyles. The CROWN Coalition still has work to do in order to ensure that all Black women across the United States are protected from hair discrimination and that involves raising awareness on the issue of grooming policies in schools and the workplace.

BLACK WOMEN ON HAIR IN THE WORKSPACE

Prior to the passage of the CROWN Act, Black women offered insights into their experiences with grooming policies that regulated how they could wear their hair. A representative from NCNW's Rochester, NY chapter expresses qualms with restrictive grooming policies. She beckons, "Why do you have a dress code policy like that?" I wrote handbooks for a living for employment law. Why is that even a law in the first place? About how you should wear your hair. That's the last thing you need to worry about." (Anonymous Participant #1. Interview by Michaela Shelton. Digital Recording. Los Angeles. December 12, 2020).

Even though state protections for natural hairstyles in the workplace are a recent phenomenon, some Black women have been able to exert agency in choosing workplace environments that are inclusive. A representative from Western Center describes her approach to

seeking employment in the following excerpt: “I intentionally chose places to work that would allow me to express my hair or use my hair as a mode of expression as I chose to. I’m grateful I had these opportunities, but not everyone has had the opportunity or desire to choose places where they can fully and freely be themselves, and so I count my blessings that I was able to do that (Anonymous Participant #6. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 11, 2021).

One Black woman I spoke to alluded to the impact of grooming policies in the media industry that perpetuates Eurocentric standards of beauty. She discloses the following:

After law school, I got a job at a major news station and worked as a field producer. I covered law and justice, policing reform issues, national politics, and breaking news. One of the challenges for me being one of the few African Americans in that space was the perception of beauty and what is appropriate and standard in that environment. For me, I think it felt very evident early on that presenting myself with the straight hair was probably more preferable and acceptable in that environment. Even though I was not on air. I definitely think that Black women and women of color really struggle in the media industry because the norm of what is defined as beauty and beauty is a factor in these spaces are driven by a white-dominated society (Anonymous Participant #9. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

Grooming policies that restrict hairstyles and discriminate against Afro-textured hair maintain the hegemony of whiteness in educational and employment institutions. The CROWN Act gives Black women a better opportunity to work and learn in environments that do not mandate their exclusion on a structural level. Furthermore, Black women in positions of power

have an acute awareness of the ways in which hair discrimination hinders their social mobility and seek to transform power structures in order to make them more inclusive.

BLACK WOMEN ON REPRESENTATION & INCLUSION

Black women in positions of power have made it their prerogative to extend their sphere of influence to other marginalized peoples. The Black women I interviewed recognize the power of their networks and the importance of making space for less privileged people to voice their concerns. Furthermore, they recognize the power of representation in building a legacy for others to follow in their footsteps. Hence, the saying “When Black women win, we all win.” Black women subscribe to the notion of linked fate,⁴ which is a term coined by Michael Dawson (1995) to demonstrate how group consciousness leads to political cohesion among a social identity group (Dawson 1995). The following quotes are excerpts from my interviews pertaining to inclusivity and power-sharing:

NCNW is always referred to as an organization of organizations. It’s not just the everyday woman. It could be a woman who is part of AKA, the Deltas, the Links, or there’s even men’s groups that support our organization too (Anonymous Participant #7. Interview by Michaela. Digital Recording. Los Angeles. January 13, 2021).

We have to be very inclusive even as we have these different organizations we are part of to make sure that we somehow aren’t communicating that we’re better because we have more education. In the AKA symbolism, there is the ivy vine, so ivy grows beside the wall and as it grows up, it brings the branches beneath it with them. One thing from the ivy prayer that I love is a line that says, “Ever climbing, reaching higher, upward like the

⁴ Michael Dawson breaks down the concept of linked fate in his 1995 book *Behind the mule: race and class in African-American politics*. While linked fate has primarily been used to analyze voting behavior in political science literature, the concept is relevant to discussions of Black women’s consciousness and group rights for Black people since race is a salient issue for many Black people. See Dawson (1995).

ivy vine.” So we’re going upward as a people and we bring everyone else too as we make headway as a people.” Who’s in power, why does it matter, and how relationships can lead later on down the line to policy advocacy and change and coalition building even if they wouldn’t have kept it from happening--whether or not those relationships were in place wouldn’t have kept the work from happening, but they could facilitate the work and there’s more trust just like with relationships (Anonymous Participant #6. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 11, 2021).

On the notion of representation, a senior manager at the NUL revealed what it means to have Black women as powerful leaders. She contends, “We can only strive to be what we can see. So being able to see all these women in positions in power, being confident in themselves and their own skin and making their own decisions, and them being deliberate about the choices they make, with respect to how they present themselves. I think it is very powerful, important, and refreshing” (Anonymous Participant #9. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 13, 2021).

The literature on institutions would suggest that majoritarian systems are less conducive to protecting minority rights. This begs the question of whether or not the success of the CROWN Act in New York is an anomaly. New York has had a track record of passing progressive laws at the municipal and state level since the 1960s. The NYCHRL covers a broad scope of rights that extends to New Yorkers and gives legal institutions the authority to enforce those protections. In the case of New York, pre-existing institutions were able to address new challenges between individual rights and group rights.

The literature on social movements predicts that a combination of group size, resource mobilization, issue framing, political opportunity structure, and collective identity can make a

movement successful. In the case of New York, Black people's minority status, or small group size, may have been advantageous to their collective action because Black people were able to organize around selective interests without the burdens of the free rider problem. Resources mattered not only for institutions but also for social movement organizations. The CROWN Coalition is funded by a combination of corporate money and member organizations with access to resources in the media and government. The CROWN Coalition benefited from framing the issue of hair discrimination as race discrimination because they were able to encourage states to modify existing legal protections for race discrimination to include natural hairstyles. Political opportunity structure was the most beneficial factor in the social movement literature for civil society organizations in the case of New York. Black people occupied leadership roles in the public and private sector, which gave them leverage in the political arena to influence legislative agendas. Lastly, the CROWN Coalition strategically used the moral shocks of hair discrimination cases to influence policy outcomes which is one of the ways collective identity can be transformed in social movements. The shock value of publicized incidents of hair discrimination was a factor that motivated people of color and white people to become allies in the movement.

The literature on cultural hegemony hypothesizes that outcomes are rooted in the construction of social norms in society. The data supports that conclusion because New Yorkers and people across the United States were beginning to redefine beauty standards and buy into the natural hair industry. Furthermore, Black women in leadership positions bought into the hair discrimination issue because they were influenced by group consciousness which includes linked fate and intersectionality, a core tenet of Black feminist theory.

In the case of New York, three crucial conditions were present that facilitated the emergence and passage of the CROWN Act. Firstly, New York contained powerful leaders in office who were following in the state's footsteps of progressive lawmaking and Black women leading organizations with expansive networks. Secondly, New York had interested actors who were stakeholders in the passage of the CROWN Act and sought to benefit from its passage. The Black women in positions of power subsequently leveraged their networks to push for the CROWN Act to be passed in New York. Finally, legal institutions in New York had the bandwidth and capacity to enforce protections against hair discrimination at the local and state levels. Without one of these conditions being present, the CROWN Act's outcome in New York could have looked very different. For example, if the state did not have interested actors, Black women could have used their networks to block this legislation. The combination of interested actors and functional institutions is essential for protection against hair discrimination to emerge because the NYCCHR developed a policy before the NYCHRL had been formally amended.

THE CASE OF SOUTH AFRICA

This chapter examines South Africa's institutional challenges, gender representation in positions of power, and cultural attitudes toward natural hair. South Africa is often referred to as the Rainbow nation, a country that belongs to all of those who reside in it. American legal scholars like Justice Ruth Bader Ginsburg have lauded South Africa's constitution for its grasp of contemporary issues that face liberal democracies (Young 2020). One of the South African constitution's founding provisions is the government's commitment to non-racialism and nonsexism.⁵ The Bill of Rights proclaims citizens are entitled to enumerated rights such as adequate housing, healthcare, sufficient food and water, and the ability to practice cultural traditions without facing discrimination. The South African Constitution also establishes constitutional courts, high courts and low courts, which are in all of the provinces and grants Parliament the power to establish any new courts (i.e., equality courts, community courts, etc.).

In this chapter, I explore the institutional and cultural legacies of apartheid and argue that they have precluded the government from passing legislation to curb hair discrimination. In comparison to New York, South Africa lacks the institutional capacity to enforce the majority of its laws due to corruption despite its consensus system design. Furthermore, South Africa does not have powerful leaders in the private sector that can advance hair discrimination legislation because the concentration of economic power has largely remained unchanged since apartheid. While cultural trends indicate that Black South African women are becoming more accepting of their natural hair, Eurocentric standards of beauty remain prevalent in the media and learning institutions.

⁵ *Constitution of the Republic of South Africa* [South Africa], 10 December 1996, available at: <https://www.refworld.org/docid/3ae6b5de4.html>

South Africa's Human Rights Agenda

The South African Human Rights Commission (“SAHRC”) was established in 1995 under the Human Rights Commission Act of 1994⁶, and as provided by the Constitution of the Republic of South Africa Act 200 of 1993.⁷ The SAHRC’s structure mirrors the federal structure of the country, meaning each province has its own regional branch of the Human Rights Commission. The mandate of the Commission as outlined in Section 184 of the Constitution of the Republic of South Africa Act 108 of 1996⁸ is as follows:

1. The South African Human Rights Commission must -
 - a. Promote respect for human rights and a culture of human rights
 - b. Promote the protection, development, and attainment of human rights; and
 - c. Monitor and assess the observance of human rights in the Republic
2. The Commission has the powers, as regulated by the national legislation, necessary to perform its functions, including the power -
 - a. To investigate and report on the observance of human rights.
 - b. To take steps and secure appropriate redress where human rights have been violated
 - c. To carry out research.
 - d. To educate the general public.
3. Each year, the Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the

⁶ Human Rights Commission Act, 1994, No. 54 of 1994 - G 16143

⁷ Constitution of the Republic of South Africa Act, 1993, Act No. 200 of 1993

⁸ Constitution of the Republic of South Africa, 1996, Act No. 108 of 1996

realization of the rights in the Bill of rights concerning housing, healthcare, food, water, social security, education, and the environment.

4. The Commission has additional powers and functions prescribed by national legislation.

While the Commission's guidance was formerly advisory, the South African Human Rights Act 40 of 2013⁹ makes the Commission's orders binding. The SAHRC's strategic objectives as an organization are the following:

1. Promote compliance with international and regional human rights-related treaties.
2. Advance the realization of human rights.
3. Deepen the understanding of human rights to entrench a human rights culture.
4. Ensure fulfilment of constitutional and legislative mandates.
5. Improve the effectiveness and efficiency of the Commission to support delivery on the mandate.

As outlined by the South African Constitution, the SAHRC has a specific set of critical issues it focuses on as a human rights agency. Since the Commission's inception, agency officials have managed cases on the following topics:

- Access to justice and adequate housing
- Basic services and healthcare
- Children's rights and basic education
- Disability and older persons
- Environment, rural development and natural resources
- Human rights, law enforcement, and prevention of torture
- Immigration and equality

⁹ South African Human Rights, 2013, Act No. 40 of 2013.

The SAHRC's mandate is very similar to the NYCCHR's mandate. Both commissions are invested in addressing human rights violations. However, the SAHRC derives its authority from the country's constitution, meaning its scope of influence is national, whereas the NYCCHR's authority is regulated by the New York City Council, and its scope of influence is local.

The aspirational nature of the South African Constitution grants the SAHRC a lot of leeway to hold the government accountable for meeting the expectations of citizens. The senior official at the SAHRC had the following to say about the Commission's relationship with the government:

We go to court many times. I think we go over 60 times in a year against the government. Most of our fight is against the government. We get about 12,000 complaints a year, but I will not lie to say there have been no attempts to try and undermine the Commission's work by making appointments. At the same time, we have a professional staff. It has been a challenge between the government and us to assert our independence. Another problem with our system is we are accountable to Parliament, and Parliament is supposed to hold the Executive branch of government to account. With our current political system, the executive is led by a political party, which also dominates Parliament, so the head of state is also the head of the ruling party. So how then do his comrades in Parliament hold him to account? (Anonymous Participant #11. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 18, 2021).

As a younger and less established democracy, however, South Africa falls victim to the perils of big bureaucracy, inter-agency conflict, and corruption which prevent the SAHRC and other departments from achieving their mandates. Goodman (2017) offers a nuanced explanation

of these conditions in his article “End of Apartheid in South Africa? Not in Economic Terms.” He emphasizes that the government built approximately two million new homes in townships and informal settlements between 1994 and 2004. The government adopted a policy in favor of South Africans who experience housing insecurity which is expected of democracies with a redistributive model. However, the issue of implementation arises again when Goodman (2017) asserts that land and assets remained in possession of a predominantly white elite and speculates that this happened because the South African government was reluctant to rattle international investors. A senior official at the SAHRC had the following to say about the land and economic issues challenging South Africa:

It is still a challenge for many Black people to access the mainstream economy as the first part. The second challenge is access to land. The struggle for freedom was about land. It was never about attaining political freedom. It was about the land which was forcefully taken from our forefathers and ancestors. The South African Parliament is currently getting views from the public and representatives on the possible amendment of section 25 of the Constitution. This section relates to property rights. That’s where the contestation is at. Some have said there is a need for South Africa to hold something akin to the truth and reconciliation commission but center it around economic injustices. As we speak, we have a commission of inquiry that is looking into allegations of state capture. Some have argued that our current President and that under this current administration, what is happening is more sophisticated state capture. What they do is weaken state-owned entities and then sell them to private investors. Some argue that this is deliberate. They are weakening institutions, defunding them, and they are cronies.

(Anonymous Participant #10. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 16, 2021)

Regarding hair discrimination cases across the region, officials at the SAHRC describe the matter as endemic. The Pretoria Girls High case in 2016 sparked controversy over social media and led to a series of protests. The senior official at the SAHRC's Gauteng province was incredibly proud of the agency's response to the Pretoria case because it was local to the region.

With regard to the Pretoria Girls High matter, we initially did our own investigation. We did not wait for members of the public to lodge a complaint with us because we have a dedicated team that monitors developments in the media and matters that are on different media platforms. We usually are very proactive in dealing with such issues. During the course of our investigation, the Department of Education and the MEC in Gauteng decided to appoint a law firm to investigate this matter. It was on that basis that we decided to pend our own investigations, await the report, and then monitor the implementation of their recommendations. We've been to the school, and we've had constructive interactions with the headmistress. We have been in touch with the lawyers of the school as of 2020, and we've been informed that the school has amended its code of conduct and that teachers also underwent diversity and race sensitivity training. That's as far as our involvement in the matter goes (Anonymous Participant #10. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 16, 2021).

The agency's goal is to focus on changing cultural attitudes and ensuring consistency across codes of conduct policies in public and private schools. "What is very strange in South Africa is that you'll find a public school with only white teachers, and the learner population is predominantly Black. The teachers still don't understand our culture. They still police Black

hair,” said a senior official in the agency’s Gauteng province (Anonymous Participant #10. Interview by Michaela Shelton. Tape Recording. Los Angeles. January 16, 2021). In response to these challenges, the Commission is set to convene a national inquiry that focuses on getting to the roots of the systemic issues across schools in April 2021 with the Department of Education. While inter-agency collaboration can yield positive results, like a double-edged sword, it can also result in an unnecessary backlog and further impede South Africa’s progress.

Another point of concern regarding the SAHRC is that only one-third of provincial managers are women, although half of South Africa’s population is female as of 2019, according to Statista. Leadership matters in shaping the Commission’s agenda and deciding which cases they will partake in and which ones they will not from the national to the provincial level. For example, a senior official in the Gauteng province acknowledged the following:

We have not taken many matters to court, but there was one matter we should have been a part of. A learner was removed from a school in 2020 because he was wearing something related to his Zulu culture, but it wasn’t aligned with the school’s code of conduct. There are still challenges in many of our schools, but we didn’t join the case. (Anonymous Participant #10. Interview by Michaela Shelton. Tape Recording. Los Angeles. January 16, 2021).

Black women and women of color in New York hold senior leadership positions within the NYCCHR. Their positionality granted them authority in determining outcomes for hair discrimination cases. Furthermore, these powerful leaders also had the final say so in which cases the NYCCHR would investigate as Black women in positions of power.

In addition to leadership being a factor that influences the Commission’s activities, budget constraints also limit the Commission’s core programmatic activity. During the 2018/19

fiscal year, the Commission operated with a budget of approximately \$11.8M USD. During the 2021/22 fiscal year, The NYCCHR had a budget of \$14.8M USD for the city of New York which is *three million dollars more* than the SAHRC's budget for the entire country. Even though the SAHRC is an independent agency, it is tax-funded and receives its funding from the Department of Justice. Another important distinction to highlight is that South Africa has 58.56M people, which means the SAHRC has fewer resources to disperse across the country than New York City has to disperse for a population of 8 million people. On a per-capita basis, South Africa has \$0.20 in funds per person whereas New York has nearly three times that amount at \$0.57 in funds per person. Even though the SAHRC can investigate public and private entities, their smaller budget means they have to be more selective with the cases they take to court. A senior official at the SAHRC raises the following question concerning the budget: "The issue is why are we so small? Somebody must answer that question. We keep asking why do you guys give us less money when we have the biggest mandate of all constitutional bodies in the country as far as human rights are concerned" (Anonymous Participant #11. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 18, 2021).

New York and South Africa have divergent outcomes in response to hair discrimination at the institutional level. Given the fact that PR systems yield more consensus-driven policies, we must dig deeper into South Africa's institutional structures to understand why the design is not producing its expected outcome. An examination of South Africa's informal institutions can offer insight into the reasons why the government struggles with state capacity and effectiveness.

Corruption, Factions, and Institutional Incompetence

For a country that appears to be a model democracy on paper, South Africa is riddled with corruption and factions that diminish its institutional capacities. Transparency International

ranks South Africa #69 out of 180 countries with 44 out of 100.¹⁰ Transparency International defines a score of 0 as highly corrupt and a score of 100 as very clean. In comparison to the region of Southern Africa, South Africa fares better than some of its neighbors on the corruption scale, with the exceptions of Botswana and Namibia. South Africa has struggled with corruption in the public and private sectors and patronage systems which benefit a subset of the political elite. According to the World Bank, South Africa was in the 66.35 percentile for government effectiveness in 2019 while the United States was in the 91.35 percentile that same year.¹¹ The higher a country's percentile is, the better that country ranks in comparison to the rest of the world.

Apartheid-era income inequality poses a significant challenge to institutional capacity in South Africa beyond the issue of hair discrimination. The South African government is still responding to inadequate housing, lack of roads, gender-based violence, etc. and hair discrimination is another problem on a growing list of demands the government has been unable to meet. Given South Africa's redistributive government design, one would expect their formal institutions to develop policies that benefit the Black majority. However, the informal institutions in South Africa are crucial to understanding the country's shortcomings in legislative enforcement.

One of South Africa's major challenges is implementing its laws on a nationwide scale due to neopatrimonialism. Political scientists define neopatrimonialism as "a mixture of two co-existing, partly interwoven, types of domination: namely, patrimonial and legal-rational

¹⁰ "Corruption Perceptions Index 2020 for South Africa." 2021. *Transparency.org*. Transparency International. January 28. <https://www.transparency.org/en/cpi/2020/index/zaf>.

¹¹ Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi. 2010. "The Worldwide Governance Indicators: Methodology and Analytical Issues." *World Bank Policy Research Working Paper* no. 5430 (September), Available at SSRN: <https://ssrn.com/abstract=1682130>

bureaucratic domination” (Erdmann and Engel 2007, 105). In other words, neopatrimonialism consists of formal institutions being mixed with informal practices of rulers that benefit particular clients. In his article “Neo-patrimonial politics in the ANC,” Tom Lodge explores the impact of neopatrimonialism on governance in South Africa. Lodge (2014) argues that patronage systems developed during the apartheid era when the African National Congress (“ANC”) operated through underground criminal and political networks. The apartheid government outlawed opposition parties with the Unlawful Organizations Act of 1960,¹² which means the ANC’s political activities were illegal at the time. ANC members straddled the public sphere and the private sphere with their legitimate political alliances and involvement in criminal networks until they became a legal party in 1990. During the ANC’s tenure as a lawful political party, Lodge (2014) observes, “while formal distinctions between private and public concerns are widely recognized, officials nevertheless use their public powers for private purposes.” (Lodge 2014, p. 1).

A senior official at the SAHRC who wishes to remain anonymous echoed these same sentiments in a one-on-one interview, stating, “the rules are there. But people are people. Power is power. Sometimes, those who are in power, and I want to be very blunt here, unfortunately, due to the past, our previous governments never really had a strong culture of accountability, of respect to the rule of law, of respect to democracy, and of respect to human rights” (Anonymous Participant #11. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 18, 2021). For example, former president Jacob Zuma was removed from office in 2018 by the ANC for allegedly allowing people in business to drain state resources and influence policy (Al Jazeera 2021). Scholars in South Africa have analyzed Zuma’s actions within the framework of

¹² Unlawful Organizations Act of 1960, Act No. 34 of 1960.

state capture, a type of political corruption that levies private interests above public concerns. State capture has become a growing concern among elected officials, leading to party divisions within the ANC.

The Youth League has been active since the 1940s and became a critical faction within the ANC during the Zuma Administration. Historically, the Youth League led the ANC's underground military operations and called for civil disobedience during apartheid. Several of South Africa's elected officials, such as Thabo Mbeki, Oliver Tambo, and Nelson Mandela, held leadership positions in the Youth League. Julius Malema was elected President of the ANC Youth League in 2008 before he was expelled from the party and founded the Economic Freedom Fighters. Lodge (2014) reports that "in the mid-2010s, however, Julius Malema and other Youth League leaders turned on Zuma, criticizing him for failing to keep his promises to the ANC's poorest supporters and calling for nationalization of the mines and land redistribution. By mid-2011 Malema was proposing Zuma's replacement" (Lodge 2014, p. 14). Malema initially was an ardent supporter of Zuma and the ANC until his political commentary on white minorities began to draw criticism from senior leadership within the ANC. The friction between Youth League leaders and senior leadership in the ANC represents the growing dissatisfaction young South Africans have with the government. According to Statista, more than 1/3 of South Africa's population consists of people 19 years old or younger (Kamer 2020). Bloomberg found that the ANC won 57% of the vote, and its support among young people was about 50% in the 2018 election, a historic low compared to the previous post-apartheid elections (Sguazzin and Bax 2019).

Furthermore, the party gets most of its support from rural communities even though two-thirds of people now live in urban areas. Lodge (2014) suggests that the ANC's support from

rural communities is linked to clientelism and neopatrimonialism. He writes that “in rural regions in which the numbers of beneficiaries of welfare have expanded very quickly as a consequence of deliberate efforts to ensure that people entitled to grants actually receive them, it is still quite easy for voters to perceive pensions and other benefits as the reward for their political support.” (Lodge 2014, p. 16). During apartheid, more than 50% of South Africa’s population lived in rural communities (see Figure 1). Given that South Africa’s population is urbanizing and becoming younger, researchers from the Center for Risk Analysis suggest that the ANC could face a potential defeat in the 2024 election (Sguazzin and Bax 2019). Party politics and neopatrimonialism are preventing the government from fulfilling its essential duties to all South African citizens.

While the Ramaphosa administration has made sweeping attempts to restore the ANC’s image and confidence among foreign investors through the corruption probe, there is still a faction of ANC members loyal to former President Zuma who oppose the party’s investigation. The ANC released a statement encouraging cooperation regarding the corruption probe, writing that “To allow anything else would lead to anarchy and open the floodgates for easily counter-revolution” (Al Jazeera 2021). Party unity appears to be a top concern of ANC officials, given the fact that if they obtain less than 50% of the vote, they would be forced into coalition rule. South Africa has a party-list proportional representation system which means parties are represented in proportion to their electoral support at the national and provincial levels. Voters elect political parties, and political parties subsequently choose which party leaders will become elected officials.

The tensions within South African politics highlight one weakness of proportional representation systems: elected officials are accountable to their parties and not to their

constituencies. Due to the deep patronage and clientele networks the ANC has established in rural areas of South Africa and among older populations, voters may feel indebted to the ANC and turn a blind eye to its institutional deficiencies. Furthermore, the ANC has not had much party competition until recently and started off its tenure with more than 60% of the vote in 1994.

South Africa's institutional shortcomings derive from its legacy of apartheid. The ANC developed patrimonial tendencies when the liberation movement was forced to go underground due to apartheid-era regulations. The ANC caters more to its supporters in rural communities than people living in urban settings because of the clientelist relationships they built during apartheid era resistance.

Examining South Africa's Nonsexist Agenda: Women in Power

Another possible explanation for why South Africa does not have legal protection against hair discrimination will involve a closer examination of women in power. South Africa fares better than the United States in terms of gender equality in parliament. In New York, Black women are not only powerful leaders in government but also interested actors who belong to networks that give them political power and economic power. Do we observe the same dynamics in South Africa? While South Africa looks better on paper in terms of gender representation, descriptive representation does not automatically translate into substantive representation in the political arena. South Africa is a leader among most developed countries in terms of gender representation by international guidelines. South Africa is ranked number 10 in the Inter-Parliamentary Union's (IPU) ranking of women for gender representation in parliament (see Figure 2). Additionally, the South African government published a labor study that found 44 in every 100 employed individuals are women, and women fill 44% of skilled posts, including

managers, professionals, and technicians.¹³ Women in South Africa also comprise 32% of Supreme Court of Appeal judges, 31% of advocates, 30% of ambassadors, and 24% of state-owned enterprises heads.¹⁴ Since the apartheid era, South Africa has transformed its view of the public sector to represent the population at large. However, the government's commitment to gender representation has been shown descriptively rather than substantively.

South Africa has one of the highest femicide rates in the world. According to the Ramaphosa administration, approximately 51% of women in the country have experienced intimate partner violence (Adebayo 2020). Unemployment rates among South African women have also increased within the last decade. Statistic South Africa reports that unemployment among women increased from 30.9% in 2008 to 37.2% in 2018, which was higher than the unemployment rate for men.¹⁵ While South African has some women in powerful positions, their representation is not enough to address patriarchal systemic issues and lack of economic power.

When one looks at gender representation among private industries, South African women fall between the cracks. The 2017 labor report closely examined Johannesburg Stock Exchange (JSEs) companies and found that among the top 40 JSE listed companies, only one company had a female CEO.¹⁶ In their 2017 Consensus Report, The Business Women Association of South Africa (BWASA) found that while State-Owned Enterprises (SOEs) are faring slightly better than JSEs in terms of women in leadership (see Figure 3), there is room for improvement within both industries, especially at the top executive-level positions. Even though the public service sector has made laudable efforts in increasing gender representation at senior managerial

¹³ Statistics South Africa. Quarterly Labour Force Survey, Quarter 2, 2017.

<http://www.statssa.gov.za/publications/P0211/P02112ndQuarter2017.pdf>

¹⁴ Statistics South Africa. Gender series volume I: Economic empowerment, 2001–2014. ISBN: 978-0-621-43133-9. Report number: 03-10-04 <http://www.statssa.gov.za/publications/Report-03-10-04/Report-03-10-042014.pdf>

¹⁵ Ibid

¹⁶ Ibid at 9

positions, the Consensus Report also noted that “As salaries increase, the gap between the share of women versus men at the senior management level also increases, with 2.5 men for every woman at the highest salary band (level 16) within the Public Service sector” (Business Women’s Association of South Africa 2017). BWASA defines salary levels starting at level one classified as a lower-skilled job and goes up to level sixteen, classified as senior management. BWASA’s Consensus Report does not investigate racial disparities within the private sector, which leaves out how Black South African women fit into the overall picture.

The Commission for Employment Equity offers insight into the racial disparities within the private sector. In 2017 South African companies reported that 67% of top management positions were held by whites, whereas only 14.3% were held by Black South Africans (see Figure 4). According to the equity commission, white people make up 9% of the economically active population while Black people comprise 80% of the economically active population (Reality Check Team BBC 2019). More than 70% of top government jobs are held by Black South Africans (Reality Check Team BBC 2019).

One of the stark contrasts between the case of New York and the case of South Africa is the fact that Black Americans are able to leverage a degree of economic power whereas the Black majority in South Africa is not. Black women in the United States are embedded in professional and private networks that allowed them to leverage their collective power to advance the CROWN Act. On the other hand, Black South African women are not explicitly represented in the data on the private sector which subsequently limits their sphere of influence in the political arena.

When it comes to women in positions of power, South Africa still has a long way to go before meaningful change can come from legislation. Leadership positions are heavily

maintained by white men in South Africa in the private sector. While women are making strides in obtaining managerial positions in the public sector, their lack of representation in the private sector could explain why income inequality issues persist. Furthermore, there is a lack of data specifying where Black South African women fit into both ends of the race and gender question in the public and private sectors. Despite the fact that there is a greater representation of women in parliament, the ANC's patriarchal tendencies have prevented women from rising to senior leadership roles within the political party.

Black South African Women's Cultural Attitudes toward Natural Hair

The 2019 Miss Universe competition made pageant history by crowning Miss South Africa Zozibini Tunzi. Tunzi was the first Black woman to win the pageant since 2011 and the first candidate to win with her Afro-textured hair. Miss Universe began her natural hair journey in 2016 after deciding that she no longer wanted to spend hours in the hair salon. Black women in South Africa spend 6x as much on their hair than their white counterparts (Chimhandamba 2020). According to hair specialist Raymond Chimhandamba, hair relaxer treatments, a chemical process of straightening hair, account for 80% of all salon services in South Africa (Chimhandamba 2020).

Halo Heritage, a collective of creators who specialize in luxurious natural hair care products and fragrances, surveyed 800 black South African women to explore their beliefs about natural hair. 76% of respondents said they preferred natural afro-style hair over weaves (Jadezweni 2021). 3 out of 4 women reported that wearing their hair naturally felt more authentic and around 61% of women stated going natural boosted their self-confidence (Jadezweni 2021). Additionally, an overwhelming number of respondents said they preferred experimenting with their natural hair and hairstyles like box braids (76%), weaves/wigs (60%), cornrows (59%),

dreadlocks (27%), and bald (21%) (Jadezweni 2021). Scholars Alubafi et al. reached the same conclusion in their interviews with South African women in Pretoria, arguing that “through these new hairstyles and products, most black South African women are able to reinvent themselves by changing hairstyles and other bodily identities frequently. This is significant, not only for the women’s partners but also for society and the current era of change, because of the general belief that a black woman’s hair and other body adornments are reflective of her beauty.” (Alubafi et al., 2018). Another motivation for Black South African women going natural is affordability, with 55% of respondents highlighting the element of affordability in their decisions (Jadezweni 2021).

In their article “The Shifting Image of Black Women’s Hair in Tshwane (Pretoria), South Africa,” Alubafi et al. argue that Black South African women’s hair is continuously changing to the socio-political circumstances of the time. At the end of their study, the authors conclude that “the ideology that presented straight, shiny hair and its associated European cultural practices as ideal and worth emulating is no longer the predominant ideology and is no longer part of the superstructure of society.” (Alubafi et al., 2018). However, Black South African women still face pressure to straighten their hair to be accepted in mainstream media.

In an interview with Insider magazine, Tunzi admits that she still faced pressure from her friends to straighten her hair or to install a weave for the competition. She remarks, “It was so strange because even a lot of people I knew, people that were my friends, were like, 'Sis, we love you, but we're just saying, maybe you should put on a wig or buy a weave” (Prinzivalli 2019). Furthermore, the Halo Heritage study also noted that 23% of the respondents admitted that they experienced hair discrimination when seeking employment opportunities (Jadezweni 2021). Despite hair and beauty trends in South Africa indicating that Black women are becoming more

accepting of their natural hair, Eurocentric beauty standards dominate the beauty industry and society-at-large.

In 2020, Clicks advert on a TRESEMME hair product drew backlash across social media for its demeaning characterization of Afro-textured hair compared to straight hair. The Economic Freedom Fighters released the following statement on Twitter condemning the advert:

Clicks participated in the public dehumanising of black people through an advert which presented the hair of black women as “damaged” in comparison to white hair which is described as normal, fine, and flat. The implications of this are that black identity exists as inferior to the identity of white people. It is an assertion that white standards of beauty are to be aspired to and the features of black people represent damage, decay, and abnormality. This characterization is the founding stone of anti-black racism (Economic Freedom Fighters 2020).

A senior official at the SAHRC identified the following trend that persists across the media today regarding the representation of Black people:

If you look at our adverts in the early 90s, they were clearly biased. Now of course, things are starting to change because you have an increase in the number of Black consumers, and you cannot sell things using white people to try and get Black people to buy. What this advertisement showed last year was that yes, the change might be there on the face of it, but in our minds and hearts, we still believe other people are inferior simply because of the color of their skin or the texture of their hair (Anonymous Participant #11. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 18, 2021).

Even though a majority of Black South African women prefer their natural hair, cultural attitudes uplift Eurocentric standards of beauty across representation in the media and within

grooming policies at educational institutions. These cultural attitudes stem from the legacy of apartheid and speak to the cultural awakening many South Africans are undergoing today as they did during the Black Consciousness Movement of the 1960s.

If you look at the history of our country, and I'm going to be a bit controversial, we were made to dislike the texture of our own hair. We had to perm, girls mainly, but guys too. I remember in varsity, one of my friends was perming. I tried it once, and my scalp was burning, and I said, "Hell no. I'm not doing this again. What's wrong with this?" Of course, our hair is quite painful to comb, very painful to comb, but it is our hair. As Steve Biko said, we were made to believe anything about us (Anonymous Participant #11. Interview by Michaela Shelton. Digital Recording. Los Angeles. January 18, 2021).

South Africa is undergoing a similar cultural trend that Black Americans in the United States experienced in the early 2010s. The Black hair industry is increasing in value across Southern Africa and has given Black South Africans an opportunity to exercise a degree of power in consumerism. Although more Black South African women are becoming accepting of natural hair styles, the media industry still perpetuates the narrative that Eurocentric standards of beauty are the ideal. However, Black South Africans have been vocal through social media about their disapproval of racist advertisements, and political parties have framed these episodes of contention as an attempt by the media and corporations to erase the cultural identities of Black people.

The literature on institutions would suggest that PR consensus-driven systems are more likely to protect minority rights and lead to redistributive policies. In the case of South Africa, it appears that the economic interests of white minorities are being protected, but the government is falling short on its ability to fulfill the promises of post-apartheid reconciliation. Furthermore,

the lack of resources available to public institutions have hindered the ability of constitutional bodies like the SAHRC to create pressure on the legislative agenda. Even though South Africa has had a track record of passing progressive laws since 1994, we cannot overlook the informal institutions that impact the government's efficiency in enforcing the law. Neopatrimonialism has led to redistributive policies for a subset of elite despite the fact that Black South Africans have demographic and political power and reduced accountability among government officials.

The most relevant elements from the literature on social movements for the case of South Africa are group size, political opportunity structure, and collective identity. In the case of South Africa, group size may have hindered collective action because Black people are a majority, and large groups are more susceptible to the free-rider problem. Given the precarious conditions of party politics in South Africa and shifting regional demographics, political opportunity structure becomes a useful tool to analyze policy outcomes. In the next election cycle, there could be an opportunity for new political alliances to form which would disrupt existing systems of patronage and clientelism. Lastly, the moral shocks of hair discrimination cases in the media could create an opportunity for civil society organizations to form a coalition similarly to that of the CROWN Coalition in order to more strategically advance protections against hair discrimination.

The literature on cultural hegemony hypothesizes that outcomes are rooted in the construction of social norms in society. The data supports that conclusion because even though Black South Africans are becoming more accepting of natural hair, the media and learning institutions continue to perpetuate Eurocentric standards of beauty. South Africa is about a decade behind the United States in regard to a cultural awakening on natural hair. However, the country is moving in the right direction by recognizing the problem of hair discrimination.

Within comparative politics, political scientists often pay more attention to formal institutions than they do to formal processes and outcomes. On paper South Africa has the means to succeed in passing legislation that prohibits hair discrimination as a liberal democracy with proportional representation. However, the informal dynamics in government stymies South Africa's attempts to address the basic needs of their citizens. The issues of representation across leadership, resource mobilization, and cultural biases are essential to understanding why protections against hair discrimination emerged in the United States through state legislative action but not in South Africa.

While South Africa may have interested actors that would like to develop legal protections against hair discrimination, the lack of institutional capacity diminishes the abilities of those actors to enact policies. Furthermore, Black South Africans have a concentration of political power and are at a demographic advantage. However, the concentration of wealth and economic power remains in the hands of white minorities whose interests are still being protected by apartheid-era structures. The CROWN Act was successful in New York because at the very least there were interested actors and institutional functionality. Due to ineffective state capacity, the South African government has not been able to provide even its most basic rights to citizens.

South Africa presents an interesting case on the study of race, power, and identity because here is a majority Black country where Black people have political power and are suffering economically. The government officials I spoke with highlighted the conditions of economic inequality apartheid-era policies have created which affect many South Africans today. Although having representation in government and political power are important for marginalized groups in a democracy, Black South Africans sphere of influence is constrained to

the public sector whereas that was not the case for Black Americans in the United States. Despite the fact that Black people are minorities in the United States, their professional and private networks have granted them access to resources and a level of economic power that many Black South Africans do not have.

In reference to a shifting of cultural norms, South Africa is on a trajectory that mirrors the natural hair trends Black Americans were following in the early 2010s. The CROWN Coalition has used the burgeoning cultural awareness Black women are undergoing to their advantage through transformative framing. The Coalition's efforts have led to the CROWN Act becoming an agenda item for many state legislatures in the United States. Black people in South Africa have political opportunities to frame episodes of contention between the media/corporations and Black South Africans. However, those frames of contention have yet to translate into a legislative act against hair discrimination.

CONCLUSION

The purpose of this research was to explore reasons why some minority groups get desirable policy outcomes within liberal democracies while others do not. Political scientists often assume that consensus-based systems produce more redistributive policies based on their institutional design. However, my comparative case study on the United States and South Africa pushes the literature of political science to analyze collective action beyond formal institutions and examine the roles of informal institutions, socioeconomic factors, social movements, and culture in shaping policy outcomes. Overall, the issue of hair discrimination in the United States and South Africa bring us closer to understanding the tensions between group rights and individual rights in multicultural societies.

Based on the analysis conveyed, I argue hair discrimination legislation emerged in the United States (at the subnational level), and not in South Africa, for three primary reasons. (1) The synergetic relationship between informal and formal institutions in New York improved the state's ability to respond to societal demands. In South Africa, informal and formal institutions had a parasitic relationship because they were competing with each other which impeded the country's ability to generate policy outcomes. Formal institutions exist in both of my cases but focusing on institutional performance gets us a better understanding of why some institutions are more efficient than others which matters for policy outcomes. (2) Black women exercise more sociopolitical and economic power in the U.S. political arena than they do in the South African political arena. Black women occupied senior leadership positions in the CROWN Coalition and were legislative champions of the CROWN Act. Their roles in the public and private sector allowed them to utilize their expansive social networks to get hair discrimination on the legislative agenda of states. In South Africa, Black women are represented in the public sector

but hardly have any representation in the private sector. Furthermore, Black women in South Africa occupy less senior leadership positions which may limit their spheres of influence on policy outcomes. (3) Black women in the United States had a vested interest in getting legal protections for natural hairstyles because of their burgeoning cultural awareness on natural hair and sense of linked fate. The fact that Black women had a seat at the decision-making table and were interested actors matters because they could have used their networks to block hair discrimination legislation. In South Africa, Black women are currently undergoing a cultural awareness on natural hair and may subsequently see an increase in interested political actors. However, South Africa's cultural trends on natural hair are a decade behind the United States' cultural trends, and only time will tell the trajectory of South African politics based on these new developments.

Key Takeaways

One of the key takeaways from my comparative case study is that political scientists cannot underscore the effects of political power and economic power on policy outcomes. Although Black people constitute a majority in South Africa, the officials whom I interviewed expressed that post-apartheid reforms did not address economic inequalities. Socioeconomic factors matter for institutional performance because high socioeconomic inequality indicates that the government is not adequately responding to societal demands. Hair discrimination is one of many growing demands the government has yet to address which include but are not limited to housing, gender-based violence, access to clean water, etc.

Another key takeaway from my comparative case study is substantive representation trumps descriptive representation. Black people in South Africa have the numbers to pass policies that favor their group rights. However, the country is facing more pressing issues which

may mean leaders are not as invested in the hair discrimination agenda. In the United States, Black people had powerful positions in government and were also interested in ending hair discrimination. The combination of Black people in leadership with substantive values on natural hair is essential for legislative backing on anti-hair discrimination laws.

Policy Implementation

The success of the CROWN Act in New York has the potential to be scaled across other states. The Black women whom I interviewed highlighted the importance of federal lobbying and state lobbying because there may be less bureaucratic tape at the state level. The CROWN Coalition should continue evaluating the political opportunity structure in each state to see where the CROWN Act is likely to pass and lobbying at the federal level. Their evaluation criteria could include the number of elected Black officials in office, their ranking status in office, and the presence of community-based organizations who could advocate on the Coalition's behalf at the grassroots level.

The NYCCHR's legal guidelines can serve as a template for other legal institutions in the United States to modify their existing human rights laws or classifications of race discrimination. Lawmakers and legal experts need to adopt more fluid constructions of race in order to address the needs of marginalized people who experience interlocking forms of oppression. Moreover, the inclusion of natural hairstyles in Title VII of the Civil Rights Act of 1964 would provide relief at the federal level for people of African descent who have been unfairly discriminated against by employers. As racism continues to manifest in covert and implicit ways, the U.S. must modernize its response by reviewing old laws and expanding protections to disadvantaged groups.

Future Areas of Study

Due to the limitations created by COVID-19, I was unable to interview Black women in civil society organizations and Black women in corporate positions in South Africa. One future area of study could be to interview Black South African women in the public and private sectors to gain insights into their social networks and cultural values toward natural hair. In the United States, Black women occupied influential positions in government, civil society, and the private sector and were able to utilize their social networks in the political arena. Researchers can assess the influence of Black South African women in the political arena and determine whether their legislative agendas prioritize anti-hair discrimination laws.

Since the issue of hair discrimination is global, another future area of study could focus on Black entrepreneurship among women who are salon owners in the Caribbean and their responses to hair discrimination policies as key economic stakeholders. Black entrepreneurs who benefit from the Black hair industry have valuable insights on beauty and cultural trends in the African Diaspora. Furthermore, their businesses could be heavily impacted by policies that enable hair discrimination, and their inclusion in the political process can highlight how Black people wield their economic power.

My comparative case study between New York and South Africa opens the door to investigate hair discrimination in other liberal democracies where Black people constitute a portion of the population. Despite government design, formal institutions do not always produce policies that protect group rights at the national level. As liberal democracies become more multicultural, it is important for political scientists to consider subnational politics and the role of informal institutions in the political process.

References

- Adebayo, Bukola. 2020. "South Africa Has the Continent's Highest Covid-19 Cases. Now It Has Another Pandemic on Its Hands." *CNN*. <https://www.cnn.com/2020/06/19/africa/south-africa-gender-violence-pandemic-intl/index.html>
- Al Jazeera. 2021. "Zuma Could Face Jail after Corruption Inquiry No-Show." *Corruption News | Al Jazeera*. <https://www.aljazeera.com/news/2021/2/15/zuma-could-face-jail-after-snubbing-s-african-anti-fraud-panel>.
- Alubafi, Mathias Fubah, Molemo Ramphalile, Agnes Sejabaledi Rankoana, and Julia Carter. 2018. "The Shifting Image of Black Women's Hair in Tshwane (Pretoria), South Africa." *Cogent Social Sciences* 4 (1): 342–47. <https://doi.org/10.1080/23311886.2018.1471184>.
- Banks, Ingrid. 2000. *Hair Matters: Beauty, Power, and Black Women's Consciousness*. New York: NYU Press.
- Biko, Steve. 1978. *I Write What I Like*. Edited by Aelred Stubbs. London, UK: Bowerdean Press.
- Bratton, Michael, and Nicolas Van de Walle. 1994. "Neopatrimonial Regimes and Political Transitions in Africa." *World Politics* 46 (4): 453–89.
- Brenan, Megan. 2018. "Trust in U.S. Legislative Branch 40%, Highest in Nine Years." <https://news.gallup.com/poll/243293/trust-legislative-branch-highest-nine-years.aspx>.

Chimhandamba, Raymond. 2020. "The Natural Hair Movement Lifts Sales In South Africa."

HAPPI. https://www.happi.com/issues/2020-02-03/view_out-of-africa/the-natural-hair-movement-lifts-sales-in-south-africa/

Chini, Maïthé. 2020. "Belgian Universities Stress That They Will Not Ban Headscarves." *The*

Brussels Times. <https://www.brusselstimes.com/news/art-culture/117067/belgian-universities-stress-that-they-will-not-ban-headscarves-in-class/>

Chipkin, Ivor and Barbara Lipietz. 2012. "Transforming South Africa's racial bureaucracy: New Public Management and public sector reform in contemporary South Africa."

<https://www.semanticscholar.org/paper/Transforming-South-Africa's-racial-bureaucracy%3A-New-Chipkin-Lipietz/92fe8874193b222f4df047b427bfd3f7672994f3#citing-papers>

Cornesse, Carina, Annelies G Blom, David Dutwin, Jon A Krosnick, Edith D De Leeuw,

Stéphane Legleye, Josh Pasek, et al. 2020. "A Review of Conceptual Approaches and Empirical Evidence on Probability and Nonprobability Sample Survey Research."

Journal of Survey Statistics and Methodology 8 (1): 4–36.

<https://doi.org/10.1093/jssam/smz041>.

Crenshaw, Kimberle. n.d. "Demarginalizing the Intersection of Race and Sex: A Black Feminist

Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics,"

University of Chicago Legal Form: 1989 (1): 139-168.

Crossman, Ashley. 2020. "What Is the Resource Mobilization Theory?" *ThoughtCo*.

<https://www.thoughtco.com/resource-mobilization-theory-3026523>

Crowe, Sarah, Kathrin Cresswell, Ann Robertson, Guro Huby, Anthony Avery, and Aziz Sheikh. 2011. "The Case Study Approach." *BMC Medical Research Methodology* 11 (1).

<https://doi.org/10.1186/1471-2288-11-100>.

Dawson, Michael C. 1995. *Behind the Mule: Race and Class in African-American Politics*. Princeton, NJ: Princeton University Press.

Eagan, Jennifer L. 2015. "Multiculturalism." *Encyclopedia Britannica*.

<https://www.britannica.com/topic/multiculturalism>

Economic Freedom Fighters. 2020. "EFF Calls for The Closure of All Clicks Stores in South Africa." Twitter, Sept. 06, 2020.

<https://twitter.com/EFFSouthAfrica/status/1302535045333348352>

Elassar, Alaa. 2020. "Jamaica's High Court Ruled a School Was Legally Right in Banning a Child with Dreadlocks." *CNN*. <https://www.cnn.com/2020/08/04/world/jamaica-dreadlocks-ban-student-trnd/index.html>.

Elster, Jon. 1989. *The Cement of Society: A Study of Social Order*. New York: Cambridge University Press.

Erdmann, Gero and Engel, Ulf. 2007. "Neopatrimonialism Reconsidered: Critical Review and Elaboration of an Elusive Concept." *Commonwealth and Comparative Politics* 45 (1): 95-119.

Gallup. N.d. Gini index (World Bank estimate). Washington, D.C.: The World Bank (producer and distributor). <https://data.worldbank.org/indicator/SI.POV.GINI>

Gallup. N.d. Gini index (World Bank estimate). Washington, D.C.: The World Bank (producer and distributor). <https://data.worldbank.org/indicator/SI.POV.GINI>

Goodman, Peter S. 2017. "End of Apartheid in South Africa? Not in Economic Terms." The New York Times. <https://www.nytimes.com/2017/10/24/business/south-africa-economy-apartheid.html>.

Greenstein, Ran. 2003. *State, Civil Society and the Reconfiguration of Power in Post-apartheid South Africa* (8th ed., pp. 1–48). Centre for Civil Society Research Report.

Hall, Stuart. 1997. "Race, the floating signifier." *Media Education Foundation*. Lecture, 2020. <https://www.mediaed.org/transcripts/Stuart-Hall-Race-the-Floating-Signifier-Transcript.pdf>

Hall, Stuart. 1997. "Representation & The Media." *Media Education Foundation*. Lecture, 2020. <https://www.mediaed.org/transcripts/Stuart-Hall-Representation-and-the-Media-Transcript.pdf>.

Helmke, Gretchen, and Steven Levitsky. 2004. "Informal Institutions and Comparative Politics: A Research Agenda." *Perspectives on Politics* 2 (4): 725–40.

Honore, Pretty. 2020. "Pass The CROWN: Why This Exec Is On A Mission To End Black Hair Discrimination ." *xoNecole*. <https://www.xonecole.com/the-crown-esi-interview/>.

hooks, bell. 1989. "Straightening our hair." In *Talking back: thinking feminist, thinking black*. New York: South End Press.

Jadezweni, Afika. 2021. "Over 76% of Black SA Women Embrace Their Natural Hair, but It's Also Okay If You Relax Your Afro." *w24*.

<https://www.news24.com/w24/style/beauty/hairstyles/over-76-of-black-sa-women-embrace-their-natural-hair-but-its-also-okay-if-you-relax-your-afro-20201118-2>.

Johnson, Alexis McGill, Rachel D. Godsil, Jessica MacFarlane, Linda R. Tropp, and Phillip

Atiba Goff. 2017. The "Good Hair" Study: Explicit and Implicit Attitudes Toward Black Women's Hair. *Perception Institute*, 18: 1-15.

Kamer, Lars. 2020. "Total Population of South Africa 2018, by age group." *Statista*.

<https://www.statista.com/statistics/1116077/total-population-of-south-africa-by-age-group/#statisticContainer>

Kymlicka, Will. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford Political Theory. Oxford: Clarendon Press.

Lijphart, Arend. 2012. *Patterns of Democracy*. NEW HAVEN; LONDON: Yale University Press. <http://www.jstor.org/stable/j.ctt32bg23>.

Lodge, Tom. 2014. "Neo-patrimonial politics in the ANC." *African Affairs*. 113 (450):1-23.

<https://doi.org/10.1093/afraf/adt069>

McCarthy, John D, and Mayer N Zald. 1977. "Resource Mobilization and Social Movements: A Partial Theory." *American Journal of Sociology* 82 (6): 1212–41.

Mlaba, Khanyi. 2020. "South Africa's New Gender-Based Violence Laws: What You Should Know and How to Have Your Say." *Global Citizen*, September 23, 2020.

<https://www.globalcitizen.org/en/content/south-africa-new-laws-gender-violence-what-to-know/>.

Mounk, Yascha. 2018. *The People v. Democracy: Why Our Freedom Is in Danger and How to Save It*. Cambridge, MA: Harvard University Press.

OECD. 2013. “Trust in government, policy effectiveness and the governance agenda.” *Government at a Glance*, OECD Publishing. https://doi.org/10.1787/gov_glance-2013-6-en

Olson, Mancur. 2015 “The Free Rider Problem.” Essay. In *The Social Movements Reader: Cases and Concepts*, edited by Jeff Goodwin and James M. Jasper, 1–448. Chichester, West Sussex, UK: Wiley Blackwell.

Oyedemi, Toks. 2016. “Beauty As Violence: ‘Beautiful’ Hair and the Cultural Violence of Identity Erasure.” *Social Identities* 22 (5): 537–53.
<https://doi.org/10.1080/13504630.2016.1157465>.

Piore, Michael J., and Andrew Schrank. 2008. “Toward Managed Flexibility: The Revival of Labour Inspection in the Latin World.” *International Labour Review* 147 (1): 1-23

Piven, Frances Fox and Richard A. Cloward. 1991. “Collective Protest: A Critique of Resource Mobilization Theory.” *International Journal of Politics, Culture, and Society* 4 (4): 435-458. <https://www.jstor.org/stable/20007011>

Pletcher, H. “Total Population of South Africa 2019, by gender.” 2020. *Statista*.
<https://www.statista.com/statistics/967928/total-population-of-south-africa-by-gender/#statisticContainer>

Polletta, Francesca, and James M. Jasper. 2001. "Collective Identity and Social Movements." *Annual Review of Sociology* 27 (1): 283–305.

<https://doi.org/10.1146/annurev.soc.27.1.283>.

Posel, Deborah. 2001. "What's in a Name? Racial Categorisations Under Apartheid and Their Afterlife." *Transformation -Durban-* 47 (47): 50–74.

Powe, Andre. 2009. "Beyond the Pencil Test. Transformations in Hair and Headstyles, or Communicating Social Change." *Glocal Times The Communication for Development Journal*, 12: 1–12.

Prinzivalli, Leah. 2019. "Zozibini Tunzi Won Miss Universe in Natural Hair - Despite Advisors Telling Her to Wear a Wig." *Allure*. <https://www.allure.com/story/miss-universe-zozibini-tunzi-natural-hair>.

Putnam, Robert D., Robert Leonardi, and Raffaella Y. Nonetti. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton, NJ: Princeton University Press.
doi:10.2307/j.ctt7s8r7.

Ram, Vidya. 2018. "The U.K.'s evolving rules on turbans." *The Hindu*.
<https://www.thehindu.com/news/international/the-uks-evolving-rules-on-turbans/article24181996.ece>

Ryan, Patrick. 2018. "Rap overtakes rock as the most popular genre among music fans. Here's why." *USA Today*. <https://www.usatoday.com/story/life/music/2018/01/03/rap-overtakes-rock-most-popular-genre-among-music-fans-heres-why/990873001/>

Santi, Christina. 2019. "Black News Anchor Fired After Wearing 'Unprofessional' Natural Hair." *Ebony Magazine*. <https://www.ebony.com/culture/black-news-anchor-fired-unprofessional-natural-hair/>

Schmitter, Philippe C. and Karl, Terry Lynn. 1991. "WHAT DEMOCRACY IS...AND IS NOT." *Journal of Democracy* 2 (3): 75-88

Scott-Ward, Gillian. 2019. *Back to Natural*. United States: Dreamscape Media.

Sguazzin, Antony, and Pauline Bax. 2019. "South Africa's Youth Are Deserting the Party of Nelson Mandela." *Bloomberg*. <https://www.bloomberg.com/news/features/2019-08-27/south-africa-s-young-voters-are-deserting-nelson-mandela-s-anc>.

Singh, Nevin and Wright, Eisha. 2019. Report of the Finance Division on the Fiscal 2020 Preliminary Plan and the Fiscal 2019 Preliminary Mayor's Management Report for the Commission on Human Rights. <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/03/CCHR2020.pdf>

Snow, David A., E. Burke Rochford, Steven K. Worden, and Robert D. Benford. 1986. "Frame Alignment Processes, Micromobilization, and Movement Participation." *American Sociological Review* 51 (4): 464-81.

Stowe, Stacey. 2019. "New York City to Ban Discrimination Based on Hair." *The New York Times*. <https://www.nytimes.com/2019/02/18/style/hair-discrimination-new-york-city.html>.

Swails, Brent, and Aisha Salaudeen. 2020. "Protests Erupt in South Africa over Controversial TRESemmé Ad Featuring Black Hair." *CNN*.

<https://www.cnn.com/2020/09/08/africa/clicks-hair-ad-south-africa/index.html>.

Tarrow, Sidney G. 2011. *Power in Movement: Social Movements and Contentious Politics*. 3rd ed. Cambridge Studies in Comparative Politics: Cambridge: Cambridge University Press. doi:10.1017/CBO9780511973529

Tate, Shirley Anne. 2016. *Black Beauty: Aesthetics, Stylization, Politics*. Farnham, Surrey, England: Routledge.

Team, Reality Check. 2019. "South Africa Elections: Who Controls the Country's Business Sector?" *BBC*. <https://www.bbc.com/news/world-africa-48123937>

Wonci, Thabile. 2019. "South Africa Has a Long History of Gender Discrimination." *IOL*.

<https://www.iol.co.za/business-report/opinion/south-africa-has-a-long-history-of-gender-discrimination-22170778>.

World Bank, Development Research Group. N.d. Gini index (World Bank estimate).

Washington, D.C.: The World Bank (producer and distributor).

<https://data.worldbank.org/indicator/SI.POV.GINI>

Young, Norma. 2020. "An Offensive Haircare Ad Shows Black South Africans Still Fight Apartheid's Race Battles." *Quartz Africa*. <https://qz.com/africa/1901428/south-africa-outrage-over-racist-clicks-advert-for-black-hair/>.

Young, Norma. 2020. "What Ruth Bader Ginsburg Thought the US Could Learn from South Africa's Constitution ." *Quartz Africa*. <https://qz.com/africa/1907952/why-ruth-bader-ginsburg-was-a-fan-of-south-africas-constitution/>.

Zaveri, Mihir. 2019. "Black Women Now Hold Crowns in 5 Major Beauty Pageants." *The New York Times*. <https://www.nytimes.com/2019/12/15/style/black-women-win-beauty-pageants.html>

Zimmerman, Alex. 2018. "Behind the Scenes of a Chaotic Year at Success Academy's First High School." *Chalkbeat New York*. <https://ny.chalkbeat.org/2018/8/20/21105596/behind-the-scenes-success-academy-s-first-high-school-spent-last-year-in-chaos-can-eva-moskowitz-tur>.

"Corruption Perceptions Index 2020 for United States." 2021. *Transparency.org*.
Transparency.org. January 28, 2021.
<https://www.transparency.org/en/cpi/2020/index/usa>.

"Governor Cuomo Signs S6209A/A7797A To Make Clear Civil Rights Laws Ban Discrimination Against Hair Styles Or Textures Associated With Race." 2019. *NY.gov*.
New York State. Governor Andrew M. Cuomo.
<https://www.governor.ny.gov/news/governor-cuomo-signs-s6209aa7797a-make-clear-civil-rights-laws-ban-discrimination-against-hair>.

"Let down your hair: New Army rules for hairstyles, nail color." 2021. *The Associated Press*.
WWNYTV. <https://www.wwnytv.com/2021/01/27/let-down-your-hair-new-army-rules-hairstyles-nail-color/>

“NYC COMMISSION ON HUMAN RIGHTS ANNOUNCES FIRST HAIR

DISCRIMINATION CASE RESOLUTION SINCE ISSUING LANDMARK LEGAL

ENFORCEMENT GUIDANCE.” 2019. *The City of New York*. The New York City

Commission on Human Rights. The New York City Commission on Human Rights.

https://www1.nyc.gov/assets/cchr/downloads/pdf/press-releases/Hair_Discrimination_Settlement_Release.pdf.

“NY CROWN Day Press Release.” 2020. *The CROWN Coalition*. The CROWN Coalition. The

CROWN Coalition. <https://www.thecrownact.com/ny-crown-day-press-release>

“Our Commitment to Restorative Justice.” 2021. *The City of New York*. NYC Human Rights.

Accessed February 2. <https://www1.nyc.gov/site/cchr/about/restorative-justice.page>.

“Referee Who Forced Wrestler to Cut Dreadlocks Banned for Two Years.” 2019. *The Guardian*.

Guardian News and Media. <https://www.theguardian.com/sport/2019/sep/18/wrestling-referee-dreadlocks-suspended-alan-maloney>.

“U.S. Supreme Court Declines to Review Major Employment Discrimination Case Targeting

Natural Black Hairstyles.” 2018. *NAACP Legal Defense Fund*. NAACP Legal Defense

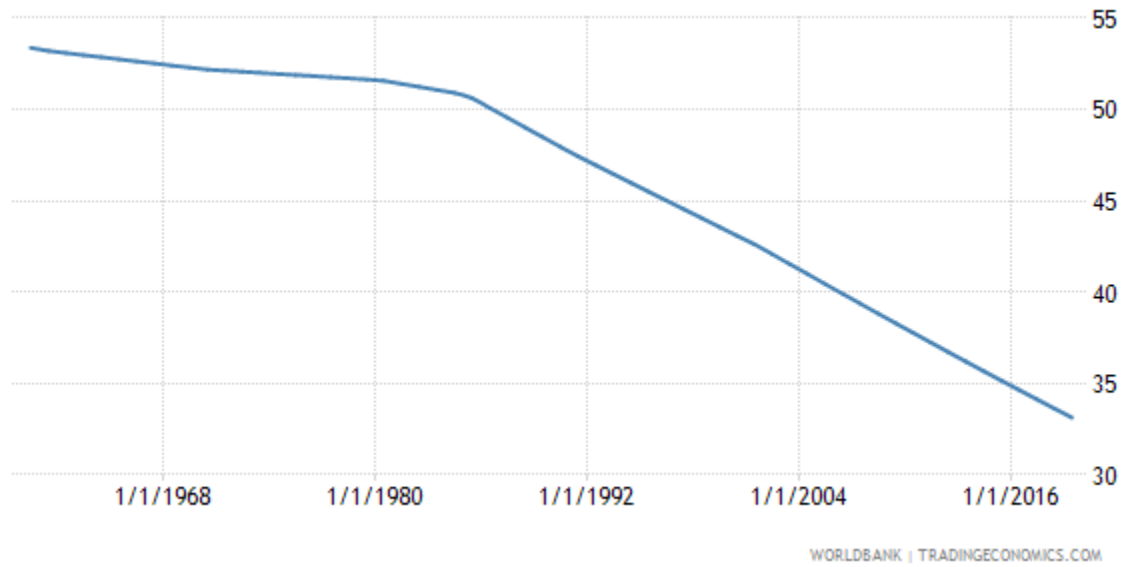
Fund. The NAACP Legal Defense Fund. [https://www.naacpldf.org/press-release/u-s-](https://www.naacpldf.org/press-release/u-s-supreme-court-declines-review-major-employment-discrimination-case-targeting-natural-black-hairstyles/)

[supreme-court-declines-review-major-employment-discrimination-case-targeting-natural-](https://www.naacpldf.org/press-release/u-s-supreme-court-declines-review-major-employment-discrimination-case-targeting-natural-black-hairstyles/)

[black-hairstyles/](https://www.naacpldf.org/press-release/u-s-supreme-court-declines-review-major-employment-discrimination-case-targeting-natural-black-hairstyles/).

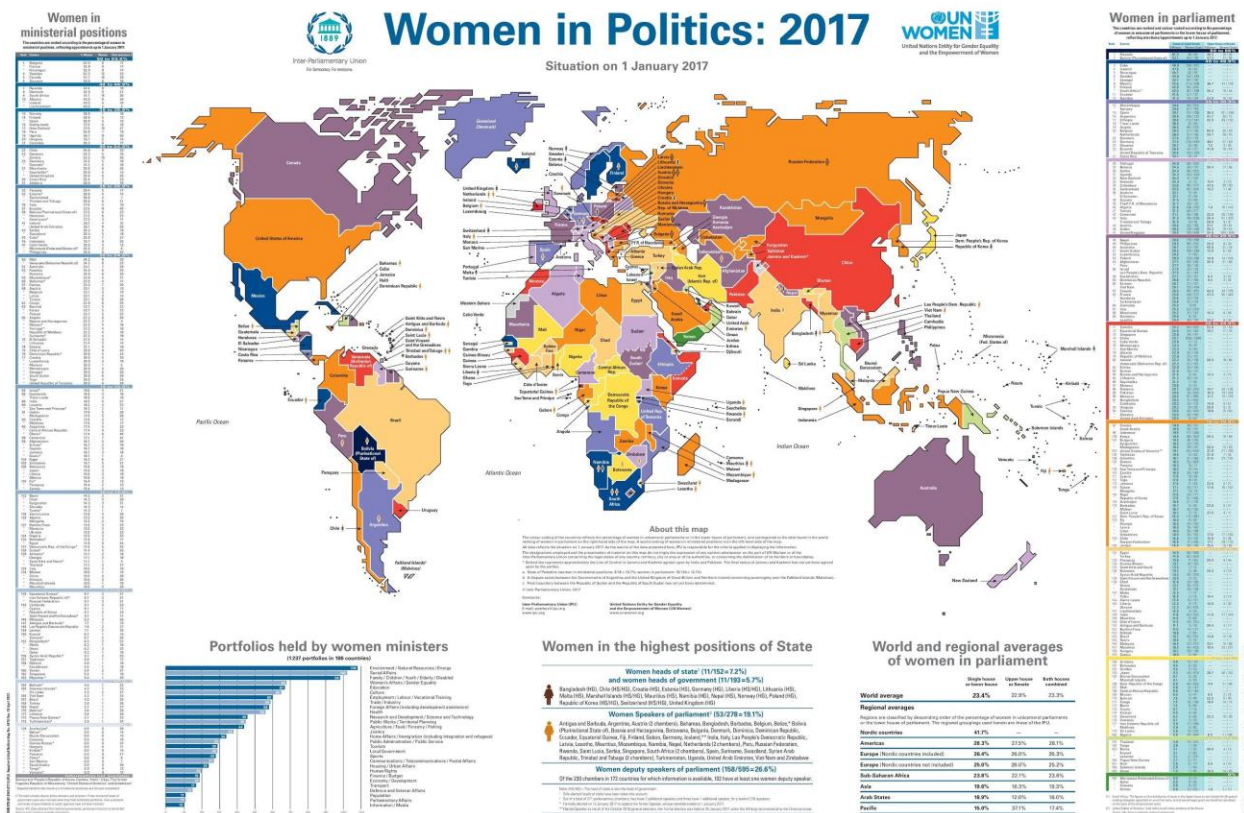
Figures

Figure 1: South Africa - Rural Population



Source: World Bank, reproduced by Trading Economics Feb. 2021

Figure 2: Inter-Parliamentary Union, Women in Politics, 2017



Source: Inter-Parliamentary Union and United Nations Entity for Gender Equality and the Empowerment of Women. Jan. 2017.

Figure 3: Comparison between JSE listed firms and SOEs, 2017

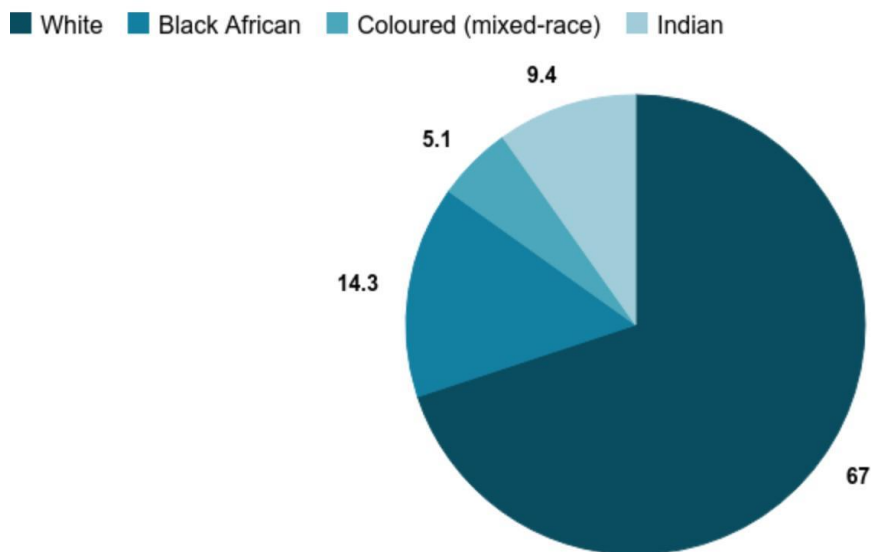
	JSE-listed	SOEs
Share of female CEOs	4.7%	5%
Share of female Chairpersons	6.9%	10%
Share of female Directors	19.1%	41.2%
Share of female Executive Managers	29.5%	28.5%

Source: Business Women's Association of South Africa, BWASA South African Women in Leadership Census Report. 2017 <https://bwasa.co.za/wp-content/uploads/2018/04/2017-BWASA-CENSUS-report.pdf>

Figure 4: Top management positions in South Africa % in 2017

Top management positions in South Africa

% in 2017



Source: Commission for Employment Equity



Source: Commission for Employment Equity, reproduced by BBC News. 2019

Appendix A

Table 1: *Interviewee Typologies*

Type of informant	New York interviews	South Africa interviews
State actor (bureaucrat, party official)	5	2
Non-State actor (NGO leader, private sector)	5	0
Total	10	2

Appendix B

Timeline of Key Events

- 1965 - present: NYC strengthened its Human Rights Law and the NYCCHR's jurisdiction through successive amendments covering disability, public and private accommodations, gender identity, sexual orientation, bias profiling, and employment discrimination.
- 2012 - 2017: Sales of chemical relaxers dropped 36.6% in the United States.
- 2013 - 2015: Sales of natural hair styling products increased 26.8% at a value of \$946M USD in the United States.
- 2016 - 2018: NYCCHR receives complaints about a racist hair policy at an upscale salon on the Upper East Side.
- 2018: U.S. Supreme Court rejected an appeal to review a claim of employment discrimination involving natural Black hairstyles in *EEOC v. Catastrophe Management Solutions*.
- 2018: Black students at Success Academy Charter School in NYC protested grooming policies that restrict headscarves.
- 2019: African American woman speaks out about being fired from her local news station over her natural hair.
- 2019: NYCCHR makes history as the first locality in the USA to offer legal protections for natural hairstyles associated with people of African Descent
- 2019: The CROWN Coalition is founded
- 2019: Governor Andrew Cuomo signs CROWN Act into law.

Appendix C

For USA/NYC participants

1. As a Black woman in a leadership position and a working professional, how have you navigated hair in the workplace?
2. Do your organization's initiatives vary from the national to the local level?
3. Do you think the CROWN Act should be localized or scaled out to the federal level?
4. What groups were the most influential in getting this law passed in NY?
5. Since the CROWN Act has been enacted, have there been any cases of hair discrimination?
6. How does the CROWN Act's enforcement work in practice?
7. What significance, if any, does the CROWN Act hold for you as a Black woman?

For SA participants

8. Given the visibility of Pretoria High School for Girls, why do you think South Africa does not have a law against hair discrimination?
9. Should South Africa pass a law similar to the CROWN Act?
10. Do institutions have the capacity to enforce such a law?

Appendix D

A List of Supporting Members of the Crown Coalition and Supporters of The CROWN Act

1. DOVE
2. National Urban League
3. Color of Change
4. Western Center on Law and Poverty
5. National Association for the Advancement of Colored People
(NAACP)
6. NAACP Legal Defense and Educational Fund, Inc.
7. Delta Sigma Theta Sorority, Inc.
8. Alpha Kappa Alpha Sorority, Inc.
9. Sigma Gamma Rho Sorority, Inc.
10. Zeta Phi Beta Sorority, Inc.
11. The Links, Inc.
12. Jack and Jill of America, Inc.
13. National Black Caucus of State Legislators (NBCSL)
14. National Organization of Black Elected Legislative Women
(NOBEL Women)
15. African American Mayors Association (AAMA)
16. National Action Network (NAN)
17. Service Employees International Union (SEIU)
18. Black Women's Agenda
19. National Council of Negro Women (NCNW)
20. Black Women's Roundtable

21. National Women's Law Center
22. Black Women Organized for Political Action
23. National Black MBA Association, Inc.
24. National Black Child Development Institute, Inc. (NBCDI)
25. U.S. Black Chambers, Inc.
26. Anti-Defamation League
27. YWCA Black Business Association
28. Girls, Inc.
29. Black Women's Health Imperative
30. Black Women for Wellness Action Project
31. Greater Sacramento Urban League
32. National Coalition of 100 Black Women-Sacramento Chapter
33. EMERGE
34. Natural Beauty Industry Alliance
35. Beauty and Barber Empowerment Center
36. Ujima, Inc.
37. Hip Hop Sisters Foundation
38. Alliance for Boys and Men of Color
39. Equal Rights Advocates
40. Public Health Advocates
41. American Academy of Pediatrics
42. Personal Care Products Council (PCPC)
43. Courage Campaign

44. Greenlining Institute
45. Women Impacting Public Policy, Inc.
46. Professional Beauty Association
47. The Natural Hair Industry Convention
48. Curly Girl Collective
49. Save A Girl, Save A World
50. EARTHGIRL
51. California Black Health Network
52. Black American Political Association of California
53. Mothers of Black Boys United
54. National Association of University Women-Windy City Branch
55. National Association of Colored Women's Clubs (NACWC)
56. Women's Equity Center and Action Network (WE CAN)
57. California Black Chamber of Commerce
58. Women's Foundation of California
59. National Association of Social Workers-California Chapter
60. California Employment Lawyers Association
61. California Civil Liberties Advocacy
62. California Teachers Association
63. American Federation of State; County and Municipal Employers
64. NYC Hispanic Chamber of Commerce
65. ACLU New Jersey
66. ACLU California

67. ACLU of Northern California
68. ACLU of Southern California
69. ACLU of San Diego & Imperial Counties
70. ACLU Georgia
71. Berkeley City Council
72. National Lawyers Guild – Sacramento Chapter
73. Los Angeles County Office of Education
74. Los Angeles Community College District
75. City and County of San Francisco Department on the Status of
Women
76. NYC Black Women’s Political Club
77. ImpactEDI
78. ACLU New Mexico
79. Building Opportunities and Opening Minds (BOOM)
80. Junior League of Boston