

# **Contract Law & Inequality: A Primer**

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Widening the Lens of Justice: Unmasking the Layers of  
Racial and Social Inequality  
Race & Economic (In)Justice—Past, Present, Future  
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# People of Color Are Dying at Higher Rates

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- ◎ **African Americans: 2.1**
- ◎ **Native Americans: 1.4**
- ◎ **Alaska Natives: 1.4**
- ◎ **Hispanics/Latinx: 1.1**

# **People of Color Are Doing Worse Economically**

## **○ Job/Wage Loss**

- **April 2020: 61% of Hispanic Americans, 44% of Black Americans compared to 38% of white adults.**

## **○ Behind on Rent**

- **July 2020: 31% of African Americans and 28% of Latinos compared to 15% of white renters**

## **○ Food Insecurity**

- **More than twice as many Black (37.4%) and Hispanic adults (39.3%) were food insecure as white adults (17.6%).**

# Contrast

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## ○ Wall Street

- S&P 500 hitting record highs
- Morgan Stanley, Goldman Sachs

## ○ Billionaires

- US minted 56 new billionaires = 659
- Gained \$1 TRILLION since start of pandemic

## ○ Poverty Rate

- 6/20-9/20: poverty rose by 6 million
- African Americans: 18.2% in June, 22.8% in Sept



# **Contract Law & Inequality**

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**Hierarchy**

**Ideology**

**Inequality**

# Hierarchy

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- **Inequality starts with property**
- **The State determines what constitutes property**
- **The State has never distributed property equally**
- **This means some people own more property than others**

# Hierarchy

- **Property & Contracts have a symbiotic relationship**
- **Property = Bargaining Power**
- **Contract law acknowledges that UBP exists**
- **Contract law ignores structural inequality**
- **Contract formation is the key**

# Hierarchy

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- **Hard to get into a contract—easy to get out?**
- **Relatively easy to get into a contract**
- **Very difficult to get out of a contract**

# Hierarchy--Implications

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- **UBP must not be a problem in most contracts**
- **Must be safe to conclude that most contracts are product of consent**
- **Most contracts should and will be binding**
- **How a contract is formed and its terms are critical**
- **The State will enforce these contracts**



# The Haves Come Out Ahead

