

Episode 16

Final Transcript

Kasaun: Who plays you in your biopic, Jon?

Jon: In my biopic?

Kasaun: Yeah.

Jon: Chuck, Chuck Schumer is probably — "I was, I'm on The Daily Show. It's a wonderful program."

[LAUGHS]

Henrik: It's time Chuck Schumer got his big acting break. Also, I'm going to like when they have to in the biopic review "Big Daddy" featuring Chuck Schumer.

[LAUGHS]

Kasaun: Can you do the whole Bryan Stevenson interview like that, please?

Jon: "You're working in Montgomery, Alabama."

[KASAUN LAUGHS]

Jon: Oh, all right. All right. All right. Stop throwing me off. Here we go.

[INTRO MUSIC CUE]

Jon: Welcome to the podcast, The Problem with Jon Stewart, which we all know is enormous. Henrik Blix, Kasaun Wilson are joining us, they're two of our finest writers. The podcast today, where we're covering an awful lot, we're doing in a slightly different way. We're going to be bouncing around. I don't know if it's a whiplash situation, but I think you're going to enjoy it. We've got Lindsay Owens. She talks a little bit about the current inflation situation and after that, Bryan Stevenson, who is just one of the most beautiful voices out there talking about injustice. But first, before we do any of this stuff. Gentlemen, good weekend? Did you watch The Bowl, the Super Bowl, the best football game of the year? Did you watch it?

Henrik: The big game? I saw it. I loved it.

Jon: Nicely done, Henrik. Nicely done.

Henrik: I'd love to play in it at some point. I haven't got an invitation, but I would love to play it at some point.

Jon: Henrik, I'm delighted to make this the centerpiece of the episode.

Henrik: Thank you. Thank you. And if you're wondering what position I'd play, long snapper. It's the only one I've got a chance. It's probably really hard.

Jon: Yeah, we all. Everybody likes to pretend like, "Oh, I could be a punter. I could be a place kicker. I could be a long snapper." It's all bulls***.

Kasaun: Yeah, because you have the body of an accountant.

Jon: I don't think we're necessarily being fair to Henrik about the body of an accountant. Maybe an accountant at Equinox, but not a normal, not a normal accountant. Because Henrik is, if I may say, stacked.

Henrik: Thank you. Thank you.

Jon: You're welcome.

Kasaun: He has the body of a man who enjoys a good oat.

[HENRIK LAUGHS]

Henrik: I'm made of oats.

[KASAUN LAUGHS]

Jon: I got to tell you something. You don't get that with fiber alone, my friend. That's not. That's not something that comes from regularity. Like, that's something that I strive for.

Henrik: Can I just say for the people listening at home, there's nothing people like more than listening to a podcast that has a name of a celebrity they know?

Jon: That's right.

Henrik: And when they hear it, they hit on this audio format as we discussed the physical body of a person they've never seen, nor do they want to know.

[JON LAUGHS]

Kasaun: That's all the comment section has been asking for. Why don't we have more people who are not Jon talking —

Henrik: So many of the comments —

Kasaun: — about their bodies that we can't see.

Henrik: — On YouTube are like, love Jon's take on this, expert, really knowledgeable, who are these other two f***ers? Get them out of here.

Jon: That's —

Kasaun: And can I also say for people who can see this?

Jon: Yes.

Kasaun: Jon and Henrik look like father and son today, and it is really bothering me.

Henrik: We're also wearing the same shirt.

Jon: Yeah. Yeah. Can I tell you something? You know, Henrik, I mean, no disrespect in this.

Henrik: Please disrespect me.

Jon: I'm only three years older than Henrik.

Henrik: That's right. We're the same age.

Jon: We're almost as we actually went to high school together.

Henrik: Mm hmm.

Jon: Henrik, I think, was a freshman when I was a senior. He was our long snapper.

[LAUGHS]

Henrik: Jon, you want to know something that's going to make you throw up?

Jon: Please.

[HENRIK LAUGHS]

Jon: I'm going to guess right now, lactose.

[LAUGHS]

Henrik: Unfermented dairy. No, I was, like when we got the job, I was looking up old clips of you, and I found your set from the Just for Laughs festival.

Jon: Oh my God. Up in Montreal.

Henrik: Yes.

Jon: Yeah, yeah, yeah.

Henrik: And that JFL set is the year I was born.

Jon: Don't say that. I'm going to throw up. That's the worst thing I've heard today. And yet I accept it. And this is, let me tell you something about aging, humbling. Never stops being a humbling, a humbling experience. But I want to get into the world right now. Here's the thing that's on my mind right now. So I'm watching the news this weekend, and it's a five alarm inflation fire. Every newscast is jumping with it, "Tonight: Inflation, hundreds of dollars extra a week, a month. Seven percent, 10 percent." And this inflation has now gotten to a point where it's really beginning to affect people's bottom line. And they start going into the why of it right and the why of it is supply chain and pandemic and all these different things. And nobody can keep things on the shelves and demand. And I'm thinking

to myself, I think we're missing one small part of this, and that is these companies are making record profits, like when they keep talking about controlling inflation, they keep talking about, we've got to raise the interest rates. And yet there is one other thing that we haven't ever considered, and that is these companies don't necessarily have to jack up their prices.

Henrik: Yeah. And it's like the numbers are pretty clear, right? That like, the amount the prices have been raised is far more than the cost of putting those products on the shelf.

Jon: There you go! F***ing Henrik!

Henrik: So it's just a choice. And it's so funny that it's like, "Prices are going up, what do we do?" It's this complex problem, and no one's like, "Wait, have people just made the prices more?"

Kasaun: Yes, that's the part that always confuses me. It's like inflation is always something that just happens to companies where it's like, I don't know what's going on versus people being in the boardroom being like, we're going to charge three dollars more.

Kasaun: Yeah.

Jon: And by the way, only happens when you raise people's wages when you.

Henrik: Isn't that crazy

Jon: When you pump the money at the high end at the asset end of like real estate and bonuses, everybody's fine. The minute you give somebody f***ing a couple of bucks extra an hour, everybody's like milk is a thousand dollars a gallon.

[KASAUN LAUGHS]

Jon: Can I tell you who I blame?

Henrik: Who?

Jon: Rogen, it's got to be.

[LAUGHS]

Jon: All right. So, so here's what we did. We got in on the inf — are you all right, Henrik? Oh boy. Henrik is out.

Henrik: I'm just making a good face for the memes.

Interview with Lindsay Owens

Jon: So here's what we did. So somebody had a tweet storm. Is that the correct way to go? Go viral. Turns out it's our guest. We reached out immediately. Her name is Lindsay Owens. She has a PhD. She's the executive director of the Groundwork Collaborative, was also an economic policy advisor for Senator Elizabeth Warren. She was a Sociological Association Congressional Fellow, a teacher on domestic poverty and inequality at

Georgetown University, which is a fine, fine institution. So we are going to welcome her right now, as is our wont. Let's not just be three s***heads sitting around talking about inflation. Let's bring in somebody who really knows this stuff. Lindsay Owens, welcome to The Problem. Nice to see you.

Lindsay: Thanks for having me. It's great to be here with you.

Jon: Lindsay, your tweets were music to my ears about — I've been yelling about this idea that we have no control over inflation because we can't. Companies still got to make the profit that they make. The only thing you can do is raise prices. Lindsay, what's your take on inflation? What's going on? And if that is the only solution?

Lindsay: Yeah, I've been yelling about this for a while, too. You know, you hear a lot about inflation falling from the sky or Jerome Powell, the chair of the Federal Reserve, sort of like waving a magic wand and deciding the price.

Jon: Right.

Lindsay: Yeah. But the truth is prices are set by firms, right? Companies decide the price that they want to charge for goods. And what we have been seeing that was starting to disturb us is reporting not just of an increase in profits, right? Increase in profits fine. Demand is up. You know, you sell more. Lemonade is at the lemonade stand, you're going to drive more profit. But what we're seeing is an increase in profit margins.

Jon: Ah okay.

Lindsay: So there's this story about how they had to charge you more because the lemons cost more.

Jon: That's right.

Lindsay: Well, okay, fine. Like they pass on the cost of the lemon as the additional cost of the lemons. That doesn't that should not drive up profit margins. Profit margins are driven up when they pass on the cost of the lemon and then tack on like a little something extra for the effort.

Jon: Now, do they? In a time of crisis and we are in a time of crisis, is there any ability to control that we don't really have any ability to say to a company in a time of crisis, "You stop jacking us on lemons." We're just going to keep riding this lemon analogy, Lindsey, all the way through the broadcast. I hope you don't mind that.

Lindsay: Look, there are a number of reasons why we're seeing high inflation right now. First of all, we've got some demand. People are buying some products. Some of that is because people have money in their pockets. That's a great thing. And I don't think the solution to this problem is to make a bunch of people poorer to solve our, you know, inflation problem. Some of what we're seeing is, you know, a shift from more money being spent on services to more money being spent on goods, right? So that's creating some real supply challenges, right? Like supply is not meeting demand, and there are a lot of different reasons for that we can talk about. And the pandemic, of course, is among them. But it's not the only one. But some of what we're seeing is this just sort of rank profiteering.

Now there are some tools in our toolbox for dealing with profiteering when it reaches the level of being sort of collusion or price fixing.

Jon: Or gouging!

Lindsay: Yeah. In 38 states, there are laws on the book against price gouging in certain situations, like emergencies like when there's a flood or fire or an earthquake, things like that. But other tools that we have in our toolbox, frankly, when we see sort of rank profiteering like this is like we can drive on tax rate, we can raise the corporate tax rate. We could implement an excess profits tax, there are a number of options.

Jon: You're talking about a legislative fix. A legislative fix I don't have any confidence in, you know, in case on mine, but I don't because the government is so slow to act. They are so analog in a digital world. And I want to make clear, have you guys know because I noticed this when I go shopping like these are Johnson and Johnson, this is like if you go to the drugstore, Tyson, if you go buy, like these are major companies that have jacked the prices really high. And you're saying chances are it's not commensurate with the added costs of their supply chain issues. It's actually quite a bit larger than that. And would they admit to that? Like if you were to call them on that, what would they say?

Lindsay: Well, we don't have to call them. They've already told us. So my organization, we looked at hundreds of earnings call transcripts. So earnings calls are just the calls that CEOs and CFOs have with shareholders when they release their quarterly earnings report, as they do on a regular basis and file those with the SEC. By the way, they have to tell the truth on earnings calls by law. So like, this isn't just, you know, embellishment or bragging, this is them telling us what's actually happening and what we see time over time. I mean, we're not cherry picking this. I mean, they're, you know, it's a target rich environment for — CEOs are really just bragging and crowing about the pricing that they've been able to pull off.

Jon: All right, here we go. I'm going to reenact, Lindsay. This is, Kasaun, you're going to be a shareholder for Jonson and Jonson. Henrik, I don't know what your role is in this.

Henrik: I'll figure something out.

Jon: I'm going to be the CEO. "Hey, everybody, we are f***ing killing it. There's some supply chain issues. It has caused some problems, but we've decided to jack this s*** like you can't believe. Honestly, I'm dipping my balls in gold as I'm on this earnings call."

Henrik: You are bound by law to tell the truth, so you are literally to be your boss and go. [LAUGHS] Is that correct?

Jon: Yes. Yes. That's my point! Kasaun.

Kasaun: I'm very invested into this conversation because there's a dollar store in my neighborhood that has decided they're going to a dollar twenty five, and I'm furious.

Henrik: They've got to change the name.

Jon: Are they going to change the name?

Kasaun: No, they kept the name dollar store. And they're like, sorry, like, no, you don't get to do this for Q-tips, but it's like QE tips. It's like you don't. You don't get you don't get to do that.

Jon: The brand stuff, right?

Kasaun: No, we know this is bootleg. You don't get to —

Henrik: The Q-tip with a sharpened right.

[KASAUN LAUGHS]

Kasaun: Yeah.

Jon: Lindsay, I think the point we ultimately come to here is we are under the illusion that we live in a free market capitalist system and we in no way live in a free market capitalist system. But the thing that's so surprising to me is your knowledge of this is not what I hear on the news. They all talk about this is out of control. We don't know how to stop it. The Feds going to jump in.

Lindsay: Yeah, look, I think this is very under-covered. I'll tell you where you'll find it. Yeah. As you find it in business reporting, you know, Business Insider, Forbes, Yahoo Finance, CNBC's Squawk Box. Like they cover earnings calls, because that's important information to cover as they track the stock market and frankly, you know, investors come to those sources for information on those earnings calls. But you know, they cover it as a kind of like a little bit of a just the facts, ma'am kind of approach. And they also cover it, frankly, as an exciting development, which is inflation has been really good for business. Inflation is keeping the stock market —

Jon: Gleeful!

Lindsay: Yeah, yeah.

Jon: When I when I've tuned into those and they're talking about, they don't ever say like, and, you know, profit margins are not commensurate to the inflationary pressures of the supply chain. They always are like, "Look at these calls. Oh, the profit calls. Ladies and gentlemen, the bulls are running. This is amazing." Like, nobody ever stops to go, "Oh, we're getting f***ed!"

Henrik: And let me say, as someone who has had my finger on the pulse of everything that Yahoo Finance is reporting, they've been gloating, they've been gloating. But it is very funny to me, Lindsey, that what you say is true in that like, there's sort of this like panic of like a mysterious thing is going on. "We have no idea what's to solve. How is it happening or is it coming from?" And then we just have these calls where people are like, "Oh, it's because I raised the price 30 percent, right?"

Henrik: Can I? Can I ask a question? So if all of these things are public consumption, what's the disconnect between what these companies are doing with inflation and how the American public receives it? Because it should be? It sounds pretty clear to me on this call that like, that's what they're doing. So what's the disconnect between these like shareholder meetings, all of these things that are public? Like why is that?

Jon: That's a great question.

Lindsay: Yeah. So I would give a couple of answers. The first is that Americans are pretty angry about inflation right now. I mean, the polling really does bear that out. You know, the latest kind of Moody's analysis suggests that families on average are getting hit with about 276 dollars a month in additional costs because of inflation. Like, that's not a media conspiracy. That's like families who see the, you know, receipt piling up at the grocery store. And frankly, most Americans also know that this is part of the story. You know, when we look at polling on if corporations are to blame for inflation, there is a chunk of people who are pretty aware of this, right? You know, across the political spectrum, Republicans, independents, Democrats, I think, you know, I don't think it gets covered as much by the sort of standard like political reporters, just because, like, you know, there's a vested interest, I think, and using inflation, weaponizing inflation to sort of like wedge Biden, right? There are also folks who, you know, there's a sort of like honest intellectual debate about the extent to which fiscal policies in the United States contributed to this and folks are playing that out. And there's a lot of reporting about the supply chain and what's going on there. And the supply chain story again is actually, you know, related to this exact story we're talking about here, which is why are these companies in a position to charge extra without fear of being undercut by competition? Well, you know, 50 years of reshaping our economy through mergers and acquisitions, creating these giants, you know, four people pack meat and get it to the grocery store. There are three major shipping cartels, you know, basically like one country handling all the semiconductors.

Jon: Sounds like the mafia. This isn't.

[KASAUN LAUGHS]

Jon: This isn't free market capital. It's like, "it's a shame if something would happen to you chicken prices."

[KASAUN LAUGHS]

Jon: "You got to watch yourself out there."

Lindsay: So, okay.

Kasaun: I see you, Tysons.

Lindsay: So the meatpackers are definitely a mafia. There's four people who run 85 percent of market share.

Jon: What?

Lindsay: One of them —

Henrik: — I'm not an econ guy. Is that good? Is that good?

Jon: No, no.

Henrik: Thumbs up or thumbs down on that?

Jon: No!

Henrik: Oh.

Lindsay: Thumbs down. Two thumbs down.

[JON LAUGHS]

Lindsay: One of them is Tyson. Another one is this company, a Brazilian company called JBS. They just settled, you know, of course no fault, a price fixing settlement two weeks ago, but the two brothers who run the company are recently out of jail for bribery. You know, this is not like —

Kasaun: — wait, what?

Lindsay: This one less like your Econ 101 textbook and a lot more like "The Sopranos." It absolutely is.

Kasaun: The chicken people are bribing people?

Lindsay: They were.

Jon: Their name is JBS, "just bribing someone." That's in the title!

Henrik: Should we be saying all this stuff?

[KASAUN LAUGHS]

Jon: Henrik Blix is calling out Brazilian meat purveyors in a very controversial.

Henrik: I'm going to wake up with chicken feet in my bed.

[LINDSAY LAUGHS]

Jon: By the way, I've never slept more soundly than when I wake up surrounded by — Lindsay, first of all, this should be screamed from the hilltops because as soon as we stimulate the economy on the demand side, like we did during the pandemic, inflation runs rampant. But when you stimulate it on the supply side inequality explodes but inflation is fine. It's just those on the high end get to hoard. So how do we leverage this syndicate to not have such profit margins during, especially during a pandemic? Why can't the government then jump in then and start to alleviate some of these supply chain issues and start to alleviate some of these manufacturing lags and force these companies into something because? And maybe this is paranoia, but it does strike me that as soon as workers start to demand higher wages and as soon as the government stimulates on the demand side rather than the corporate side, suddenly the economy decides, Oh, we're going to go into crisis mode and hyper inflate everything like it does feel very suspicious. And if I'm being paranoid, please, please tell me so.

Lindsay: No, I mean, at least, you know, at a minimum on the political side, if not the larger economic narrative, I mean, of course, workers are going to get scapegoated for this.

That's absolutely the play. Workers wages and frankly, unions, you're you're going to see and have already seen folks blaming like unionized workers at the port of L.A. for the supply shortage. And you know, it is real to worry about what economists call a wage price spiral, right? Wages going up and then companies increasing prices to cover the cost of wages and then prices going up and workers asking for more wages. The good news is we haven't seen that at all in this moment, and so we can be fairly confident we're not in a situation where there's a wage price spiral. I think we're in a profit price spiral, right? You know where these CEOs are driving a harder and harder on price and are saying that, you know, there's more room to drive on price and will continue to drive on price

Jon: So is the answer here. Actually, not so much economic policy or monetary policy, but trust busting. Is it, are we back in the Teddy Roosevelt days? Is this about the government stepping in to create an environment that doesn't become so monopolistic or cartel-ish or any of those things? And how is there a way that they can create more competition and less price collusion in this marketplace?

Lindsay: Yeah, I'm not going to sit here and tell you that like, we run this policy play and all of our problems are solved. Like this mess took 50 years to create and we're not getting out of it overnight and like, we may not even get out of it before the next mess hits. I think the first. Absolutely right. I mean. As aggressive as possible on antitrust, I want to see, like the Department of Justice going after collusion, right, going after price fixing, you know, taking this on criminally, which it is, it's criminal. President Biden has asked the Federal Trade Commission and the Department of Justice and senators such as Senator Elizabeth Warren have asked the Department of Justice to look into this, and I think that they take those requests seriously. And so hopefully we'll see some action on that front. But there's definitely work that the Federal Trade Commission can take on as well here, like not criminal ones, but, you know, other other fines and abilities to take on this issue.

Jon: How much of an issue do they think it is? And do you know if that's made a dent in their priorities?

Lindsay: Yeah, I mean, Lina Khan, who chairs the Federal Trade Commission, has spoken out on this pretty forcefully about both the profiteering that she's seeing right now and also, frankly, the kind of long arc story that we talked about around the supply chain and how, you know, waves of mergers and acquisitions over the last few decades got us to a place where these giants were really able to capitalize on a crisis.

Jon: Right.

Lindsay: So I think she takes this quite seriously.

Kasaun: Is there a reason why inflation and competition aren't talked about together because it just seems like inflation seems to be a consumer's problem? And now that, like Frontier and Spirit are together, like where am I going to get my \$68 flights from? I don't care who makes my bread. I don't care who makes my eggs. I don't care about none of that. So why isn't competition more of a priority here versus letting —

Jon: —because we don't live in a free market capitalist system, even though we pretend we do.

Kasaun: I was just trying to alley-oop for you, Jon. Thank you.

Jon: Yeah!

Henrik: He slammed it into the mic.

Jon: Lindsay.

Lindsay: I can answer. You know the question about why economists aren't interested in this and like why competition doesn't get, you know, brought up in this space? And I think the short version is they don't really have a theory of power. Power market power and power matters for how markets are shaped. And I think folks like historians who study power, political economists, heterodox economists, sociologists who do you know and folks who are in the anti-stress space? And do you think power matters and how economies work? And I think, you know, macro economists are going to have to take power into account going forward if they want to actually be a predictive science and be helpful in a moment like this, which frankly, they aren't really right now.

Jon: Do you think they got caught off guard that corporations that have like, you know, almost monopolistic control over pricing decided to not necessarily gouge by jacket more than is necessary?

Lindsay: Yeah, I don't think that they like to think about this. And I think their earnings call data, which you know trickling out, is really helpful and sort of forcing this issue to the fore. And there's, you know, a lot more where this came from and there's a lot more to put out.

Jon: Lindsay Owens, from the executive director of the Groundwork Collaborative. Thank you so much for joining us and enlightening us today. We really appreciate it. And we will call you back when the wage price spiral is so out of control that we're all getting nosebleeds on milk prices.

Lindsay: Thanks for having me, Jon.

Jon: Lindsay Owen's man, bring in some knowledge to us.

Kasaun: She needs to come back.

Jon: She needs to come back, man. You know who the long form guest is on today's program? I don't know if you guys are you familiar with Bryan Stevenson at all? Are you familiar with justice? Are you familiar with good people working hard to make a better world?

Henrik: I'm familiar with Just Mercy, starring Michael B. Jordan.

Henrik: Let me tell you something. Here's the thing you don't know. So Michael B. Jordan is actually a step down in attractiveness from Bryan Stevenson. That's what most people don't realize they've never seen him.

Kasaun: That's quite an allegation.

[JON LAUGHS]

Kasaun It means he's known for his attraction.

Jon: I'm talking abs for days.

Henrik: That's what I heard is that when Michael B. Jordan was taking him on, yeah, the only thing was they were like, "You can't be in Black Panther shape for this." You've got a really —

Jon: — you got to start working.

Henrik: ABS for justice.

Jon: By the way, Bryan Stevenson, founder and executive director of the Equal Justice Initiative, which is a human rights organization in Montgomery, Alabama. Bryan Stevenson is one of those guys, and I don't say this lightly. I've interviewed a few people like this. Desmond Tutu was one of them. Malala was — like, this guy has an essence that's so beautiful that you can't help but be influenced by the goodness. Like, there's something about him, the countenance, the way that he carries himself, and because he lives it. There's just something about individuals like this. There's not enough of them in the world, but the ones that are really spectacular. Anyway, phenomenal guy. Really excited about the conversation.

[TRANSITION MUSIC]

Interview with Bryan Stevenson

Jon: Bryan. How are you? How nice to see you again. How are you?

Bryan: I'm well, it's great to see you too.

Jon: I also, I have a room very similar to the one you're in with a lot of books that I am also reading right now to educate.

Bryan: I have no doubt, I have no doubt you probably have like a whole library like big buildings and things to kind of reflect the books you've read. I have no doubt about that.

Jon: Bryan. It's very similar to if you remember "Beauty and the Beast," where he had just books, and it's really all I do with my time because learning is so important to me.

Bryan: It is. It is. It is.

Jon: Have you been, man? Where are you right now?

Bryan: I'm in my office in Montgomery, Alabama, and being in Montgomery without traveling for almost two years has been really kind of a revelation just because you just learn things about yourself in terms of when you're just in the same bed every night. It's been great. But the most amazing thing for me has been just thinking about the people here more. I mean, I've just during this last two years, I've come to appreciate how much I'm standing on the shoulders of people, you know, who did so much more with so much less. I've thought a lot more about that generation that came before me in Montgomery, who had put on their Sunday best and they would go places to push for basic rights and

they'd be on their knees praying. And they knew that they were going to get battered and bloodied and beaten. And yet they still went. And you think about there, I've been thinking about that just because I've been here every day for the last couple of years, and it's made me even more energized and committed to try to do the work. You know, we're trying to do

Jon: It's amazing work that you're doing. Is that what inspired you to get into it in the first place? You know, when you talk about the kind of legends of Alabama and Montgomery and Selma and all throughout the South and the North? I mean, and the abolitionists. What was it about them that's so inspired you? Was it that sense of the dignity of nonviolence in the face of violence? What, what got you in the first place?

Bryan: Yeah, I definitely think it was their sense of mission and purpose that they did things that they didn't have to do for themselves, but they felt obligated to do for other people. You know, I grew up in a community where black kids couldn't go to the public schools, started my education in a colored school. There were no high schools in our county when my dad was a teenager, and even though my dad was hard working and smart, he didn't get the opportunities that other people got. And then these lawyers came into our community, made them open up the public schools, and that's how I got to go to high school and college and law school. And the thing that I never forgot about that was that if you had a vote on whether to racially integrate the schools in my county, we would have lost the vote. The county was 80 percent white. But these lawyers had the power to make them do something they would not otherwise do. By complying with the rule of law and that kind of power really excited me because I never felt like we were going to persuade everybody to think the right way about everything, right? And that really did motivate me to see both civil rights activism, but in particular, the law and the rule of law as a tool for advancing the rights of disfavored people, marginalized people, people who lived in spaces where they were unseen and unheard. And I've been even more inspired by it, you know, as we've gotten deeper into this work.

Jon: I'm struck by, you know, you tell a story like that and you sort of expect, you know, we're going to trot in the 98-year-old, you know, "years ago." I mean, you're a young man, the fact that this was occurring in the United States even within your lifetime. And that the law was a necessary lever by which you had to force people to allow that is, I think it's shocking to people.

Bryan: It is shocking and I think that's one of the mistakes we, I think make today is we we don't understand how we are in the very early days of a post-apartheid era in this country. I mean, African people came here over 400 years ago, and throughout most of that history, they were enslaved. They were terrorized by lynching. They were legally segregated and barred. We're in the very early days of this post-apartheid era. I'm not 100 years old, but when I was born, many states in this country banned interracial marriage. And you could not go to public schools. You could not go to the to the movies in interracial settings. And we're just beginning to reckon with that history. And the critical thing, of course, was the laws changed in the 1960s, but the thinking has still not changed in a lot of spaces. And so we're still wrestling with all of these dominant attitudes and ideas that have dominated American history. So you're right, we're in a very early phase of this period of time when it was legal to exclude people based on color and race.

Jon: Bryan, you're dangerously treading on critical race theory, and I'm afraid I'm going to have to ask you two to leave the room right now.

[BRYAN LAUGHS]

Jon: We're going to have to shut this down right away. This brings up an interesting point, Bryan, because this is, you know, we just taped an episode for the show on race. The idea being, you know, after George Floyd, there was this idea of, "Oh, we're going to have to have a racial reckoning" as though that was, you know, a shock to the system for Americans of like, "Hey, are we not? Do we have a racial issue in this country?" You know, it just appeared to everybody and white people very clearly, like "we're going to where I think we're going to sit back and listen. It's time." And so we just ran sort of African-Americans saying pretty much the same thing from 2020, all the way back to Frederick Douglass. I mean, basically, the message is remarkably consistent over time, and it's not a question of it not being said or people not listening. There are structural and emotional things in place that are preventing the dominant culture in America from accepting either responsibility. I don't know if it's resentment based on an accusation that seems attacking your morality. I don't know if it's resource guarding. The faces of. The white people that Ruby Bridges face when she went to school in the faces of, you know, the Little Rock kids when they went to school and the faces of Boston bussing and the faces of Upper West Side sophisticated liberals when their school is being integrated. Man, it's the same face and it's the same anger, and it hasn't changed. Where do you see? How do you begin to not just legislate but make real progress beyond that?

Bryan: Yeah, I think that's an important insight, Jon. And I mean, I think you've characterized it really effectively. We have never really contended with the narrative of racial difference that we have all inherited. If you live in this country, you live in a space where the air has been polluted by contaminated by these narratives that have been shaped over centuries. And it doesn't matter whether you live in Boston or Alabama or Los Angeles, no matter where you go, you're in a space where there are these narratives that undermine our ability to look at each other in a healthy and whole way. And some people have argued that at some point they'll dissipate. But I don't believe that these are the kinds of contaminates that you have to address. And I think we're in this place because we haven't talked about things we need to talk about. We've had this evolution of history, but we actually haven't had a conversation about this narrative of racial differences, narrative of racial hierarchy that we were given. We've never really talked in this country about the fact that we're post-genocide society. I think what happened to indigenous people when Europeans came to this continent was a genocide because millions, tens of millions were killed through famine and war and disease. And rather than talk about it through the language of genocide, we created a narrative of racial difference to justify all of that death and violence. We said those native people, they're savages, and we use that narrative of racial difference to exclude them from the liberty and justice that we were codifying in our constitution and declaration. Then we use that same narrative of racial difference to justify two and a half centuries of slavery. And the great evil of slavery, for me, wasn't involuntary servitude in the forced labor. The real evil of slavery was the narrative of racial difference that we created to justify enslavement it because enslavers wanted to feel moral and just and Christian. So they created this narrative that Black people aren't as good as white people. Black people aren't fully evolved. Black people are less capable, less worthy, less deserving. And that narrative of racial difference that was the true evil of American enslavement, and we fought the Civil War and the North won the Civil War, but the South won the narrative war because that idea of racial difference of racial hierarchy of white supremacy, it persisted after the Civil War, which is why I've argued that slavery doesn't end. It just evolves. It turns into a century of mob violence and lynching.

Jon: The pathology within it has never dissipated. Bryan, this gets to a great point. Maybe this could be instructive. I can walk you through some of the pushback that occurs when that's brought up, and this is something that happened on the show we did. And I want to get your opinion on the various levels of — I call them "the but people." People that watched what happened to George Floyd and said, "Oh, that was terrible. But." And it was either, "That's not all law enforcement or he was a particularly, you know, vagrant and drug addicted fella" and all the buts that occur from and I'm not talking about the extremes of the country, the tiki torch marching Charlottesville Jews will not replace us folks. That's not really why we can't get racial progress. Racial progress strikes me as the majority of white people that consider themselves moral have slavery is not on their hands, certainly. So I want to address the things that come up. So first and foremost is always we. We don't have slavery. We don't have segregation. So we've knocked down those barriers. So why are we still talking about it? It's a meritocracy.

Bryan: Yeah, and I think it's important to kind of frame things in ways that people can understand. But the truth is we still do have a very segregated society in this country. We never did address the legacy of a hundred years of disenfranchising Black people from the end of the Civil War until the 1960s, even though we have a constitution that guarantees the right to vote to every American citizen, even though it was illegal and unconstitutional. We allowed black people to be largely disenfranchised for a century. We allowed black people to be pulled out of their homes and beaten and drowned and lynched. And you didn't have to participate in the mob to be responsible for that kind of mob violence because everyone in America was comfortable in abandoning the rule of law while thousands of black people were being lynched and terrorized and the demographic geography of this country was shifting. Right, the six million black people that fled the American South that went to Cleveland and Detroit in Los Angeles and Chicago went to these communities as not as immigrants looking for new economic opportunities, but as refugees and exiles from terrorism. And we were comfortable with all of that. And then when we passed the laws in the 1960s, we said we're done. And so the reason why we are still dealing with it is because we haven't reckoned with the damage. And this is the thing that's so perplexing. American society is a society that believes if you hurt someone, if you damage something, you owe them a repair. You can't damage my car on the interstate.

Jon: It's a tort.

Jon: It's driven. That's our entire legal system entirely. If you go to us based on harm.

Bryan: It's based on harm. Law school is dominated by courses on remedies and care, et cetera. But in the context of civil rights and racial justice, we have never talked about repair. We just said to those states that disenfranchise Black people for a century, "Don't do that anymore." I wouldn't need to be a criminal defense lawyer if our notion after you commit a crime, burgle someone, rob someone is if you go someplace and they say, don't do that anymore, we won't accept that.

[LAUGHS]

Jon: It's illegal now, so you have to worry about it.

Bryan: And that's the heart. I think that is the reason why we have made so little progress and because the people in power are the people who are obligated to make the repair. I

talk a lot about what happened in South Africa after the collapse of apartheid, and we have a truth and reconciliation process. I talk a lot about what we've seen in Europe, in Germany, in particular, where when you go to Berlin, you see a completely different architecture and landscape. You can't go 200 meters in Berlin without seeing markers in stone that have been placed next to the homes of Jewish families. It is a landscape that screams reckoning and reconciliation and repair, and because of that, there are no Adolf Hitler statues in Germany right to be unconscionable, to try to memorialize the perpetrators of the Holocaust. But in this country, the landscape is littered with iconography celebrating those who perpetuated and enslavement. And so in the 1960s, what we should have done after the passage of the Voting Rights Act is to say now, because these states have resisted providing voting rights to black people for so long. We're going to make you do some things that evidence repair. I don't think it would have been wrong or inconsistent to say, if you're a Black person in a state that has historically disenfranchised black people, you don't even have to register to vote. The state is obligated to register you when you become of age. I don't think it would have been wrong to say, "We'll, come get your vote as an act of reckoning with 100 years of disenfranchisement and intimidation."

Jon: Right.

Bryan: But instead of doing that, we empowered the same people disenfranchised people to come up with new tactics to minimize black voting. And that's continued till today.

Jon: That's the key. The key has been that through every advancement, there's been a clever mutation that has slowly, you know, back in the South, you know, imagine letting people out of slavery and then not giving them any means and then immediately saying, "You know what we're going to do, we're going to pass a law to suggest that vagrancy and loitering." White people in the South, they don't loiter, they sashay, they amble, but they don't loiter. That's set aside. And so every time power was gained, another mutation occurred to dissipate that power to knock the foundation of that power from gaining momentum.

Bryan: That's right. And it sometimes even wasn't that clever. So you had 90 percent of the Black population living in the American South. States where there were anti literacy laws were enslaved Black people or free Black people were barred from learning to read. And then once reconstruction collapses, what's the what do we do? We create all of these literacy tests that you have to pass to vote, which don't. Lie to white people, it didn't apply to you if your grandfather could vote before the end of the Civil War. And then once people became literate, and there were a lot of Black literate people, we have to manipulate the tests in ways to make sure that no one can pass. We have an exhibit in our museum. We've actually gone through and pulled questions from literacy tests that were being administered in the 1950s and 1960s during my lifetime.

Jon: Right.

Bryan: And the questions are things like how many bubbles in a bar of soap, how many seeds in a watermelon, how many windows in the White House, count the number of Jelly Bean. And I guess what I'm saying is we were tolerating all of this.

Jon: Mm hmm.

Bryan: And the fundamental challenge that we have in America is that unlike South Africa, where black majority took over and power shifted, unlike Germany, where the Nazis left the war, there hasn't been a shift of power in this country. And so we've been engaged in trying to persuade people to reckon with this history without the power that comes when you win a war, when you're dealing with a defeated foe.

Jon: Right.

Bryan: And that's why Dr. King and all of those amazing civil rights advocates resorted to nonviolence. That's why we're using all of these different platforms, discourse and media and art and music and law. But ultimately, there has to be an awareness that we did something harmful, and we now have to make sure that we adequately remedy that harm, which is why I think we have to have an era of truth telling that then leads to reconciliation and restoration. And the mistake, I think sometimes is made that people scare folks into thinking that if you tell the truth, if you hear the truth, you won't survive. And I don't believe that I actually, you know, I come from a faith tradition in my church. You can't come in there and say, "I want salvation and redemption, but I don't want to admit to anything. I don't want to own up to anything they'll tell you it don't work like that."

[JON LAUGHS]

Bryan: They'll actually say, "No, confession and repentance is key to the redemption in the salvation."

Jon: Oh man, that's a tough one.

Bryan: And and I guess I feel like the moment we are in is going to require us to actually believe that there's something better waiting for us. And I do think there's something better waiting for us.

Jon: And that's what I want to get to, which I think is at the base of this, you know, the emotional reaction to this issue. So two things. One is, if you drill down, really drill down on the biases and the way things are portrayed, I think white people believe that somehow black people are partially or wholly responsible for the condition of entrenched poverty or the condition of incarceration or any of those other things. And number two is, and if you try and remedy those, those things that occurred that are no longer systemic and structural that it will come out of their pockets. So there's resentment and there's fear. And I would even say to you, Germany definitely handled it in a very different way. But they've got a pretty thriving neo-Nazi population. That, to me, feels like the key. How do you deal with the emotional part — the justice part of it just seems so obvious.

Bryan: Yeah.

Jon: That something else is holding us back, and it feels like resource guarding or resentment or a feeling that, look at the way they talk about drugs in this country.

Bryan: Yeah.

Jon: Crack is gangs and violence, and these kids and single mothers and crack babies and opioids is those poor folks are they're just despairing.

Bryan: Yeah, well I think you're I think you're right in that we haven't created sort of an emotional reaction relationship to this history that allows us to see things as we should. Mm hmm. I mean, what's interesting to me is that I can tell a story about someone who's treated terribly because of their race, right? Who's arrested, wrongly accused, put in an adult prison, have a client who spent 30 years on death row for a crime he did not commit, man named Anthony Ray Hinton, and they presumed his guilt because of his race. He was poor. He didn't have the resources to get the help he needs. And because we have a legal system that too often treats you better if you're rich and guilty than if you're poor and innocent, he spends 28 years on death row in a five by seven cell. Fifty five people are paraded past him and executed had evidence of his innocence that the state just would not respond to eventually win his release. And when he goes out and talks to people now, I think people feel deeply that he was wrong. They have an emotional connection to his pain and his suffering, and they understand it at that level, but they're not willing to step back from that and then to say, but we, there were prosecutors and judges that were responsible.

Jon: There was a system. Everybody looks at it as a one off. George Floyd, that was terrible but people won't, they won't go to that place of, you know, the analogy I like to do is the pandemic. Yeah, OK maybe we don't have racism capital R now, but we're still testing positive. We still have the antibodies, and those structures, it's so hard to get people to admit that the system that was built is still felt today that those issues compounded.

Bryan: That's right, but I guess that's where we just haven't done the kind of careful thinking that we need to do if you can't understand the climate issue without understanding that it's our whole history that has created this space where the global warming is taking place where the caps are melting. It's not just something that happened, you know, 100 years ago, it's what we're doing today. It is a collective history that allows these things to happen. And that's true when you talk about regional issues and land issues across the world, their whole histories behind it. Well, that's true in this country. You know, like I said, my dad couldn't go to high school in our county. He worked in a food factory. He was just as smart and hardworking as a lot of other people. When he died, he didn't have land and money to give to his children. We inherited debt, and it wasn't because he didn't work hard. He was a really hard working person. He fought in the Korean conflict, but when he came back from the Korean War, he couldn't get loans through the GI Bill because banks didn't give loans to black veterans. They gave loans to white veterans and they could build homes in the suburbs.

Jon: The new deal black people were excluded from the New Deal, the Homestead Act. I mean, you can rollback all the way to the beginning.

Bryan: That's right, but those things have long-term consequences for lots and lots of people. And that's what we have to understand when we talk about systems and what we talk about structures. And that's why, in fact, I think we need institutions to begin doing repair work, hospitals and schools and media that contributed, you know, lynching was largely a consequence of the way media tolerated mob violence and vigilantism. They legitimated that kind of conduct. And some of those same media outlets today don't understand why they are criticized for some of their coverage. But there hasn't been that reckoning there hasn't been that reckoning in business there hasn't been. So I think that's part of it is that once we understand the nature of the problem, we know that the problem isn't just levels of crime or poverty or despair. It is the way in which we have created this system. The structure that is non-responsive to wrongdoing, to harmfulness. You can't

pour toxins into a river for 50 years and then stop and say, I don't owe anybody anything. Even though you can't fish in that river, you can't swim in that river. That's the kind of thinking that we have to understand where we're going to get, make progress.

Jon: I think the river analogy actually resonates with me also because it's not a malevolent racism necessarily, but it's an inertia.

Bryan: That's right, you know I think the cultural landscape of this country says a lot about how we have failed, and it does require intentionality. It does require a willingness to look past these old modes, which haven't been very good. And I think the same has been true. You can look at gender, you can look at a lot of other issues that until the narrative shifts, there was a time when I, you know, when I was growing up, a woman who was being abused by her spouse, if she called the police, she didn't have an expectation that that man was going to be arrested because police didn't deal, didn't take domestic violence seriously. They might pull the person out of the house. They weren't going to arrest that person, and then we had to kind of get people to begin understanding the harm. And media can be powerful. I remember when Farrah Fawcett made a movie called *A Burning Bed*.

Jon: Sure, sure.

Bryan: She inhabited this role, and it changed the way people started thinking about that. And so when the narrative shifted, the response shifted. You know, we didn't have harsh punishments for people who were arrested for driving under the influence. It wasn't something you encouraged, but it wasn't something that you quote ruin someone's life over it, put them in prison for and then Mothers Against Drunk Driving began that campaign where they allowed their pain and their suffering and the harm of tolerating driving while intoxicated. And that's when the law began to shift. And now we have a very different attitude about that offense than we did before that narrative shift takes place. It's happening now around sexual harassment and sexual violence in the workplace. It shifts when the harm becomes known and expressed and accessible to people, and we begin thinking differently, talking differently and behaving differently. And unfortunately, we haven't had that kind of shift when it comes to racial injustice, when it comes to racial violence, when it comes. Which is why that moment in 2020, when the police officer is literally snuffing the life out of George Floyd it's a little jarring, but if we don't understand the broader picture, the context, then it becomes a moment and not a movement, which is why the narrative- that is why cultural leaders and media and art and music has such a critical role to play. I think this is ultimately a narrative struggle that has to be advanced in ways that it hasn't been, in my view.

Jon: That brings me to a point, and I want to get your feelings on this. One of the issues that happens is. When you make the moral argument to people, walls go up because they refuse to believe that they would be party to a system that feels corrupt and corrosive and unjust. I'm not party to that. That's somebody else. My life is hard. I don't have privilege. I'm working hard. What if we were to shift that narrative from a moral argument almost to an efficiency argument, which would be this: We can't afford to lose human capital in this country. Entrenched poverty basically makes poverty for everybody that productivity is what drives this country. And until we are able to bring, you know, it's arid desert and until we can irrigate that, until we can make that bloom, it brings all of us down. And can we make that argument to people that fixing this is actually in your economic interest, even as a struggling, lower class white person. Or, you know, somebody who says they play by the

rules and they do and they don't get any of the breaks. How do we- is that- would that be an effective line of argument?

Bryan: I think it will be effective for a lot of people, and I'm at the point in my kind of life and career where I'm open to all of the effective arguments. You know, for a long time, I was arguing against mass incarceration, this over incarceration of people in this country because it was wrong, you know, putting people in prison for, you know, 80 years for writing a bad check, having no minimum age for trying children as adults which is just wrong. You know, I kept saying, look, we talk as if we can put crimes in jails and prisons, we can't put a crime in jail or prison we can only put a person in jail or prison and people are not crimes. And so we have to think differently about this. And amid all of those arguments, but it's only when states didn't have the funding that they needed for education, for highways, for basic services because all of it was being swallowed up by these prisons. It was only when we began to reckon with the billions of dollars that are being spent each year to incarcerate people that we began asking, well, does everybody that we have in prison need to be in prison?

Jon: That's right.

Bryan: And then when we realize that we have hundreds of thousands of people who we could let out of prison tomorrow and our crime rate would not go up would not be a threat to public safety that you've seen a handful of states begin to make some progress and bring that down. And I do think we need to appreciate, again, the cost of allowing bias and bigotry. And it's what I call the politics of fear and anger. And this is the challenge, though, that we face. You know, we have said that people who are drug addicted and drug dependent are criminals. That's what our politicians did. You know, 50, 60 years ago.

Jon: Opioids, slightly different situation.

Bryan: Well, that it starts with, you know, the people who use these things are criminals. So we criminalize them. We put them in jails and prisons. And then all of a sudden those laws begin to expand. And then we look at these other people say, wait a minute, that's my son, that's my neighbor, those are the people I know and trust. And then we begin to realize that it's not about criminals — it's an addiction, it's a dependency, it's about mental health. But my point is, is that when you allow yourself to be governed by fear and anger, which is what happens in politics, not just here, but all over the world, you go any place in the world

Jon: And increasingly so.

Bryan: And increasingly so.

Jon: As we're adjusting to the modern media.

Bryan: Absolutely. And because it's very effective, it's how you get likes. It's how you get attention,

Jon: It's how you get elected.

Bryan: It's how you get elected and that puts you at risk of then tolerating things you would not otherwise tolerate, accepting things you would not otherwise accept. We've got 13

states in this country that have no minimum age for trying a child as an adult. And if you and I went to that legislature and said, surely you do not believe we should put five and six year old children in adult prisons, let's just make the law so that you cannot do that. We're going to have a hard time getting that law passed. We're going to have — and so I end up representing 10- and 11-year-old kids facing adult prosecution because we're tolerating something we should not tolerate because we don't want to be accused of being soft on crime or not tough or not. And that's what fear and anger will do. It will make you indifferent to the victimization of other people, hostile to correction and change, hostile to reform and justice, and make you complicit in creating the kind of society that we've seen too much of where there's injustice and inequality. Which is why I think part of getting people to that different emotional response is to get them to recognize that you can't actually be loving and kind and good if you're shaped entirely by fear and anger. Those are obstacles to healthy relationships. You know you don't marry people because you're afraid of them or because you're mad at them, because you have to, lasting marriages come with some appreciation that you have to get past the mistakes. I tell people all the time, our aversion to saying I'm sorry, I'm wrong is going to limit the growth of this society because we can't get what we're trying to go. If we're not willing to acknowledge that we make mistakes that we fall down. You show me two people who've been in love for 50 years, I'll show you two people who have learned how to apologize. When they're going out of bounds when they've made a mistake, and that's the dynamic of life and community.

Jon: But we've we've retreated from that type of engagement, and part of it is, I think, you know, you've got this idea that the default setting, the factory setting in the United States is white, Christian, and male. And so anything that deviates from the factory setting is an accommodation. They are making an accommodation and it almost, it comes back to this idea that. It, because black people have had to fight so hard for equality and that that was something that was allowed to be bestowed by the white power structure. So if somebody, but it wasn't theirs to bestow. But if you feel like that's your ownership and that's the negotiation, economics is not even on the table yet. It's almost as though the fight for equality was allowed to go on so long as white people build equity. So wealth was able to compound over all those years while the struggle to just be seen as human and forget about equal. Distracted from that and how do you address that idea that — I mean, to put it in its most blunt terms, was integration a failure? And should the black community have been allowed like a Marshall Plan where so that when it raised to a certain level where it was no longer such a skewed negotiation, you actually had two parties that were facing each other on more solid and even ground?

Bryan: Yeah, well, there are certainly some who made that argument. You know, Marcus Garvey and others. I just think that, you know, when I think about my own kind of familial history. So my great grandparents were enslaved in Caroline County, Virginia.

Jon: Great, your great grandparents. So —

Bryan: Great grandparents, James and Victoria Bailer, born in the 1850s, enslaved, illegal to read, humiliated every day, denied basic freedom, could not do any of the things that a human being should be able to do. My great grandfather learned to read, even though it could have cost him his life because he had this belief that one day he'd be free. so as an Ame- a person born in this country, he had to believe something he couldn't see. But he had that belief when emancipation came my grandmother told me that formerly enslaved people would come to their house every week, and my great grandfather would stand up and read the newspaper so they would know what's going on. And these are communities

of people who were working hard every day. They were building resources, they were building this country, they made this country progress. My grandmother's brother fought in World War I and a decorated troop that went to Europe and preserved the lives of people there and then came back and was denied the freedom that he was fighting for over there. My grandparents fled to the North during that time of lynching. My parents were humiliated every day by those signs that said white and colored. And yet they never gave up on this country. They never gave up on working hard and buying into all these things they thought their children might get. So when you have that kind of investment, when you have people believing in an idea, we don't feel like we should give up on that. We don't feel like we should have to go away.

Jon: It's not going away. It's given the chance to build the equity that they were denied in this country.

Bryan: Even that, though, is a decision, a power that is in the hands of others, it does happen now. You have people who have invested in black, and that's why I think it's not, not only —

Jon: The government hasn't, in the way, I mean, if we spent \$6 trillion rebuilding what we thought we destroyed in Afghanistan, why don't we spend \$6 billion rebuilding what we destroyed in America, that we did destroy it?

Bryan: That's exactly right. And that's why it is not wrong to invest in communities that have been damaged by our history and our structures. It's not wrong to privatize black banks and black businesses and black ownership that is trying to create some opportunity. But more fundamentally is we have to reckon with the harm that we have done, the wrong that we have done because I think most people, a lot of people in this country, you know, if I bump into somebody and I knock them over and I hurt them, I'm going to feel bad. I'm not the kind of person that can just accidentally,

Jon: But also though Bryan, you're lovely. So that's that also, though, is I don't know if you've met a lot of people here but,

Bryan: Well, my sense, though, is that we have a lot of us this yes, this need this desire to feel right, to feel just to feel more. Not everybody, but a lot of it, even people who are doing things I fundamentally oppose. They want to think they're actually right. That they're moral, that they're —

Jon: Do you engage those folks, Bryan? Are you someone that can engage them and have you found ways and strategies that feel like you make progress in that arena?

Bryan: Absolutely. I mean I'm a lawyer in Alabama. I go into courtrooms where my client and I are often the only people of color. You know, you can't serve on a capital trial jury unless you support the death penalty. So I have had no choice but to engage people and to push people. And that's the lesson of Dr. King and the civil rights leaders. They use nonviolence to confront the immorality of assuming that you are better than other people, and that the optics of that were really powerful. So yeah, I have no choice but to go where the need is because I know there are people who are more vulnerable than I am. You know, I could move to another country. I could isolate myself in the space where I would be less victimized by these harms. And people have done that for generations, black folks and other folks. But I know that one in three black male babies born in this country is going

to end up in jail or prison unless things change. I know that the children of my children are going to still be burdened by the legacy of slavery in this country unless things change. I know that the hopelessness that condemns so many of the 12- and 13-year-old boys who tell me that they expect to be in jail or prison by the time they're 21 is going to persist unless things change, and because of that, I have to go wherever I can go to push things, to move things. And the powerful thing is that I do see it happening.

You know, we have this exhibit in our museum. We have these jars of soil that we put on shelves and they're from lynching sites. And we had a middle aged black woman go to one of the sites, and she was nervous when she got there because it was in a remote location, it was on a dirt road. She got to the site. She got down on her knees. She was going to start digging and a pickup truck drove by. A big white guy in the truck stares at her, slows down, turned around, drives by again, stares at her some more. She's terrified. Then the man parks the truck, gets out, walks over to her. She says she decides she's not going to tell him what she's doing. She says she should go and say she's getting dirt for a garden. Man walks up there and he says, "What are you doing?" And then she told me later, she said, "Mr. Stevenson, something got a hold of me and I told that man," she said, "I'm digging soil because this is where a black man was lynched in 1937. I'm going to honor his life," she said. It was just me and that big guy, but something got a hold of me. And she said when she said that the man just stood there and then he said, "Does that paper you have talk about the lynching?" And she said, "Yes," and she gave the man the paper. He said, "Can I read it?" She said, "Yes," and he started reading the paper while she started digging. And the man finished reading the paper, and then he put the paper down, and he stunned her by saying, "Excuse me, ma'am, but would it be alright if I helped you?" And she said, "Yes," and he got down on his knees and she offered him the implement to dig the soil. He said, "No, no, no, no, no, I'll just use my hands." And this guy started throwing his hands into the soil and putting it in the jar, kept throwing his hands into the soil, and it blew her away. She said, "I had a tear running down my face. I just didn't expect it." And she said they got near the top and she noticed that the man had slowed down and she looked over at him and you could see that his face was red. She could see his shoulders were shaking. And then she saw a tear running down his face and she stopped and she put her hand on his shoulder and she said, "Are you all right?" And that's when the man said, "No, no, no, no, I'm not alright." And he looked at her and he said, "I'm just so worried that it was my grandfather that participated in this lynching here. And she said they both sat there on this roadside weeping about the history, about the pain, about the suffering. She said, "Well, I'm going back to Montgomery to put this in the Legacy Museum at EJI." He said, "Would it be alright if I just followed you?" And I watch both of these people come in with that jar. So, and I don't say that because I think beautiful things like that always happen when we do the truth telling, when we do the hard work. But I think until we do the truth telling, until we do the hard work, we deny ourselves the beauty that is justice.

And that's what I want to say to even the angriest white people, the angriest and most bitter people on these issues of race and justice. I want them to understand that there is something that feels more like freedom, more like equality, more like justice, waiting for all of us. But to get there, we have to have the courage to actually address the things that we are dealing with. Nobody takes chemotherapy and radiation because somebody offers it. Once you've been diagnosed with cancer, that's when you're willing to do these hard things. And we have to be willing to make the diagnosis, even when people don't want to hear it. And that's the work of this. For me, it's kind of saying the things sometimes people don't want to hear.

Jon: This is why I always when I talk to you, I always walk away feeling we can do anything.

[BRYAN LAUGHS]

Jon: Because it's so discouraging to watch it and even the sense of engagement now is lost. You know, you see in the current and that's not to say that economic boycott and all kinds of other grassroots protests and all those things don't add up because it does. And it oftentimes forces all kinds of change. But it seems like at its heart, it's two people with their hands in the dirt joining together to right a wrong. And it's such a — boy, it's hard to have that kind of retail justice and the idea that 'cause it feels so incremental and you want it to be profound and you want it to be cataclysmic. You want this change to be something that, you know, we've waited so, so long to deal with it, and —

Bryan: Yeah.

Jon: But you still seem so hopeful, and maybe it's not hope as much as it is necessity.

Bryan: Well, it's both. I do feel like hope is critical to our ability to move forward. I mean, I was telling you earlier about the generation that came before me, they had less reason to be hopeful about ending segregation than I have to be about ending all of these systems and structures that I'm dealing with. I mean, when you think about it, they only knew enslavement and terrorism and segregation, so they had to believe something they had not seen. And that's why I do argue that hopelessness is the enemy of justice. Injustice will prevail if hopelessness persists. If we're not willing to believe things we haven't seen, it will not happen. You know, and I, you know, I do see things, there has been a lot of change you know, I'm watching these, you know, in Alabama, it's all about college football, right? And you know, now you see these teams that are dominant and they're predominantly athletes of color. And that used to be you couldn't have a, you know, a black quarterback and you couldn't have this and you can't and people want to win enough that they will actually get past all of those things because it advances this community goal of actually prevailing. And I think that has to push us because if we don't stand up, sometimes when people say sit down, if we don't speak, when people say, be quiet, we will not prevail, we will not get what we're trying to go. And that's true, I just think in all walks of life and that is also part of our heritage and our legacy. You know, I think about all of those extraordinary people that did such incredible things. People in, you know, media and entertainment that had to endure so much while they just represented who they could be. And that's why I feel like, yes, you have to stay hopeful. We built a museum and a memorial in Montgomery, Alabama. If you'd asked me 10 years ago, is that something we could do, I would say no. If you said something we should do, I would've said no. But we got to the point where I began worrying that we might not win Brown vs. Board of Education today. I'm very worried about our courts today, we've created a legal environment where we seem to not take seriously the commitment to equality and anti-discrimination. So that means we have to invest more in this narrative struggle to create that kind of thing.

Jon: Well that's the but people again, where they say but Oprah, but Barack Obama, I mean, these outliers of excellence, you know that, yes, extraordinary people can rise extraordinarily.

Bryan: Yeah.

Jon: But we need a rising tide for all.

Bryan: Yeah.

Jon: And the system doesn't — it's not built for it

Bryan: Well, it's just people keep looking for shortcuts. They want quick cures. They, you know, they want to win the Olympics, but they don't want to train. You know, they want to be NBA players, but they don't want to practice. They want all of these things, and it doesn't work like that. You know, in 2008, everybody was saying, "Well, you have to stop talking about race. We're post-racial now." I don't even think some of the people who said that then are willing to now say, "We are post, we are anything but post-racial."

Bryan: And never were any —

Jon: And never were, but that's the thing is that we, you know, like I said, if you're looking for a shortcut, if you're looking for a quick cure on something that is this kind of entrenched, we're never going to get there, which is why we have to start thinking about this as need. I think we need an era of truth telling, an era of truth and justice, an era of truth and repair, truth and reconciliation, truth and restoration. And we have to pace ourselves for that because that's what it's going to take.

Jon: I wanted to ask you about Atlanta. Atlanta struck me as very segregated in terms of where people were living, but economically it wasn't. You know, I spent some time there last year and I was struck by it's one of the few places I've ever been, one of the few cities I've ever been, where black economic power and wealth have transformed the social environment around it as well. And it's what made me think about that idea of wealth and equity as the thing that we should focus on rather than equality because, when you get one, suddenly you get the other. Yeah. And is that something? Is that a model that you see or?

Bryan: No, I think it is. I mean, I definitely think we have to be talking more about wealth and we have to be talking about equity. There's no question about it. But when you think about a city like Atlanta, some of what you see there is the confluence of a lot of things that are unique. You have two leading academic institutions like Morehouse and Spelman, with a rich tradition of black excellence for women and men that are pushing people out into the world highly skilled, highly focused, highly dedicated. You've had black political leadership, not just in the last 10, 15 years but dating back, you know, decades. You have a strong church that has been pushing in some ways. You have entrepreneurs that have been doing extraordinary things. Even people like Tyler Perry in the media space.

Jon: Like creating his own studio, creating and employing people.

Bryan: All of that.

Jon: You need control.

Bryan: And it's just an environment where people are allowed to succeed, allowed to be their best selves. And that's the difference I see in a lot of other places where you're not allowed to do that. You don't have those kinds of long-standing institutions. But no

question that wealth and equity have to be part of the equation. We have to create actually a new power dynamic that sees strength in success around these issues.

Jon: Do you think that's a scalable model for other cities and or was it really a confluence of just very unique events in that area?

Bryan: I mean, Atlanta is still a city in the state of Georgia, and it is a very, very continuing struggle, because we see this happening all over the place. I mean, a lot of the things that happen in Atlanta can be undermined by a state government that uses all kinds of policies to —

Jon: Sure.

Bryan: If people in Atlanta feel like they don't get to elect their own officials because their voting is discounted by this kind of contrived manipulation of who gets to represent. You'll see things dissipate very quickly. You've got a lot of rural areas in the state of Georgia, so I don't think there's any way you can isolate a community and say we can succeed here and then — this whole country has, I guess I'm just unwilling to let anybody in this country off the hook from dealing in a fundamental way, in an engaged way with correcting these problems, with thinking differently, positioning themselves differently when it comes to this history and ending this tolerance of of bigotry and violence and discrimination. I just think there's no other way around it.

Jon: And ultimately, maybe you're right that it comes down to without political power those gains can be too easily pulled back. And that's really been the history, is that each gained whether it is through what happened in Tulsa or what happened after, you know, 1872, you know, that election where the federal troops left and suddenly everything got pulled back. So without that political power.

Bryan: That's right.

Jon: Yeah.

Bryan: The Congress was filled with black elected officials in the 1870s, 80-some percent of the eligible black voters had been registered to vote. They were participating.

Jon: Right.

Bryan: Then power shifts, politics get corrupted, white Southerners take over.

Jon: And not by happenstance, because of it.

Bryan: That's right.

Jon: That was the compromise.

Bryan: That was it. And so then you have a century of suffering despite that commitment to education and hard working and democracy. So I don't think we can disengage at any level, at any space. And, I mean, I think that's the, I know people want something easy and something that is kind of less difficult. But the truth is, our history is hard. Our history is complicated and we're not going to get to the other side without making that kind of long

term engagement, that long term commitment. The good news is that it's not a bad thing. It's not an unpleasant thing. It can be affirming. It can be powerful people —

Jon: You've seen it transform. You've seen it unburden people, and in some ways it could unburden a nation.

Bryan: Absolutely. Absolutely. I mean, we have at the end of our museum this thing, and I genuinely believe this. I just think about what would it be like if the children of our children were unburdened by all of this racial conflict and discrimination? What would it feel like for everybody, not just black and brown kids, but for all children to live in a space where they can have beautiful, open relationships with anybody based on their personality and their talent and their characteristics, not based on all of this other stuff. What would it mean if we could use the energy and the resources and the skill and capacity that's now focused on all of this anti-discrimination work and all of the bigotry and injustice on other things? And I think that has to motivate us to get to a different place.

Jon: Bryan, it's always such a pleasure to talk to you, and your work is just, it's so inspiring. And I have to tell you, Michael B. Jordan, I thought was — he doesn't match you handsome-wise.

[BRYAN LAUGHS]

Jon: I don't know what they were thinking. It's like putting Rodney Dangerfield out.

[BRYAN LAUGHS]

Jon: Come on you, Bryan Stevenson.

Bryan: It's very kind. Hh wanted to get everything right. He was trying to kind of get everything right. And the one thing I did say is like, "Michael, man, you don't have to lose the Black Panther body when you play me, but you can still look like Creed when you play me in this movie."

[JON LAUGHS]

Bryan: Nobody went for that, but that was my only thing.

Jon: I love it. Well, it's much appreciated, my friend, and thank you.

Bryan: Thank you too, Jon.

Jon: All the best, and we'll talk to you again soon.

Writers segment

Jon: Guys

Kasaun: Incredible interview, incredible.

Henrik: It feels like he's constantly levitating a half inch off the ground, he's of a different uh, listening to him I was like, "Oh. I have no —"

Jon: You should get to work.

Henrik: — value. I have no worth.

Jon: Yeah. I don't think that's his point. I think it's more to inspire than to cripple with anxiety and pain.

Henrik: I think the way I should phrase it is, if he ever gets sick, I think he should take my organs.

Jon: Amen. There's going to be a line. If Bryan seems to ever gets sick, there is going to be a line of people donating organs. He is a very special individual. And I thought it was really interesting. We talked about engagement, things like that as like, what do you think about engaging with people who obviously have, you know, different points of view and things like that? And he's like, "I'm a lawyer in Montgomery, Alabama, for civil rights." He goes, "A lot of times, I'm just sitting there. I'm the only black guy in the courtroom, like, I don't have a choice."

Kasaun: It's just me and my client.

Jon: Yes.

[KASAUN LAUGHS]

Jon: That's, how crazy was it he was talking about, you know, we're talking a little bit about Just Mercy. And he was talking about this client 35 years on a murder he didn't commit and I was like, "Oh yeah, that's the movie, Just Mercy." He goes, "No, no, no a different one." I was like, "Whoa." They could do a series of movies on this guy and his clients that have been unjustly convicted over decades.

Henrik: He's like the Jack Reacher of law, where he just got like, you could just do anthologies or just like one after the other of like each one of these, every single case has ever taken on full movie

Jon: And he could be played by Tom Cruise with no logic behind it because Jack Reacher is supposed to be like eight feet tall. And Tom Cruise is like, yeah, I could do that.

Kasaun: Yeah, they're going to be producing Just Mercy like M*A*S*H*.

[JON LAUGHS]

Kasaun: Where it's like, "Wow, it's still going. There's more."

Jon: There's more.

Henrik: We're in the 19th year of this trial.

[KASAUN LAUGHS]

Jon: It's really crazy. But man, I can't thank him enough and I've known him for many years. Like, that guy is something like he's something to aspire to, that's for sure.

Kasaun: Did it feel like the perfect ending to our, what people will see in our episode?

Jon: I don't know. I don't think our episode will be out there yet. So this will be, people will see Bryan Stevenson — Kasaun is referring to, we do an episode on race that's coming up in the new season — and it would be a really good complement to that. But they haven't seen it yet. So what I would say is yes, Kasaun, but no Kasaun. I would say this spoiler alert, yes, Kasaun

Kasaun: It's a great forward to a very interesting book you're about to read.

Jon: By the way, that f***ing episode still is with me, the one that we did. That's still hanging with me. How are you guys feeling about it?

Kasaun: I'm still emotionally hungover from that episode.

Jon: Right? It was bonkers. Take this all as a teaser. This episode is one of the Apple TV+ episodes that's going to be out in March. It's on the issue of race, which, as you know, is a very agreeable issue in today's society. So I just, I urge you all to know that it will be nothing but flowers and candy. And of course, before we go, our writers assistant Maria Randazzo, she is going to give some constructive criticism on your social media, please. She means no disrespect. She's only, she's trying to help, for gods' sake, people, open your hearts. Here she is. The Randazz rundown.

The Randazz rundown

Maria: Hey, Maria Randazzo here, and I got to say I'm really sick of everyone on social posting the same old, tired stuff. So I'm here with a Randazz rundown of what I don't want to see on social anymore. OK, here we go. Wide slow pans of pastoral views, boomerangs of your homemade bolognese, you in a pumpkin patch. Infographics that say the zodiac signs as cheeses, pics of your boyfriend with wing sauce on his face caption "Love this guber." No more. "Babe, what?" What do I want to see? Give me something real people show me a screenshot of your bank account, the inside of your bathroom cabinet, a video of your aunt casually shopping at Marshalls. Show me all your uncles lined up from tallest to shortest in matching outfits. Put a link in your bio to your full length high school show choir concert from 1998. Is your therapist hot? Post a pic. Your aunt casually shopping at HomeGoods, a video of your parents watching you do an improv show, your W2s, your 1099s. How do you file? A video of your parents saying they aren't coming to any more of your improv shows? Do you have a hot cousin? Post and tag baby. Show me your aunt casually shopping at DSW. Is your dad hot? What are you hiding him for? A video of your aunt casually lounging in a pumpkin patch? Actually, no. I want the uncles in the outfits tallest to shortest in the pumpkin patch, yeah. Until you start posting that kind of stuff. I'm scrolling right on by. This has been a Randazz run down social media edition. See you on the gram and don't forget to keep it real." Babe, you're lucky to have me."

Jon: That is our show, everybody. Want to thank Bryan Stevenson, of course, Lindsay Owens for coming by and telling us about the economy. Henrik and Kay for joining us. For more content from The Problem, check out our newsletter, subscribe at our website. By

the way, did I mention we have a website? Did you guys know we have a website? Have you visited the website?

Henrik: I've been.

Jon: It's something with backslash. I don't, I don't know how to get to it.

Henrik: Of the dozens of websites out there, it's one my favorites,

Jon: There's only seven and we're one of them. So I think that's a real accomplishment.

Henrik: Huge real estate.

Jon: Huge. Theproblem.com that's what it is. Check out the Apple TV+ show coming back on March 3rd. If you haven't seen it, check it out Apple TV+ link in the episode description. We're back next week until then. Bye bye. The Problem with Jon Stewart podcast is an Apple TV+ podcast and a joint Busboy Production.