

**HAIR GOES NOTHING:
 PROPOSING THE UNIFORM ENACTMENT OF THE CROWN ACT
 ACROSS THE UNITED STATES**

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“You’re not supposed to have braids at the front desk,” uttered the manager of New York City’s swanky St. Regis Hotel to new employee, Rachel Sakabo.¹ Before this moment, the new position had been going really well according to Ms. Sakabo, who successfully made it through numerous interviews and an orientation focused on proper speaking and representation.² “Well, don’t worry,” she responded, “they’re not braids. They’re locs.”³ Just when she thought the awkward exchange was over, she heard, “well, can you *unlock* them.”⁴ After explaining that dreadlocks could only be cut off, but before excusing herself to the restroom to cry, she assured her manager that she would be willing to go bald in an effort to resolve the apparent issue.⁵ However, it would turn out that the gesture was neither necessary nor adequate. Ms. Sakabo was thereafter terminated from her new position, which all together lasted just under two weeks.⁶ Immediately puzzled by the explanation that she was not a good fit, she pleaded for greater clarification— “you don’t fit our culture here, you may be better suited for a W hotel.”⁷

A reasonable person would think that how people style their hair or how their hair naturally grows from the scalp, has nothing to do with their qualifications for a particular job.⁸ Apparently, most

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¹ Talal Ansari & Salvador Hernandez, *This Woman Says She Was Fired from An Upscale Hotel Over Her Dreadlocks*, BUZZFEED NEWS (Aug. 29, 2016), <https://www.buzzfeednews.com/article/talalansari/st-regis-braids>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Ra’Mon Jones, *What the Hair: Employment Discrimination Against Black People Based on Hairstyles*, 36 HARV. BLACKLETTER L.J. 27 (2020).

employers are not reasonable people.⁹ Throughout the United States, black women who embrace their natural hair textures and styles, like Ms. Sakabo, have been victims of hair discrimination in the workplace.¹⁰ In the eyes of corporate America, black women in favor of sporting their natural tresses are unprofessional or unemployable.¹¹ And so, this outrageous correlation between hair and employment forces black women to have to make difficult choices. These women either compromise their cultural identity by adopting a straighter, more tamed hairstyle in order to get or keep a job, or they risk losing a job opportunity for refusing to conform to the undeniably prejudicial beauty standards in society.¹² It is the duty of our nation's lawmakers to not only acknowledge this gross injustice, but work tirelessly to enact uniform legislation across the United States that will legally ban discrimination against traditionally black hairstyles.

Reviewing centuries worth of hair discrimination is essential when trying to grapple with the complications it currently presents.¹³ As shocking as it may seem, once existed a time when natural hair was marveled at and admired as a source of beauty, pride and originality.¹⁴ Before it was maligned, made fun of, or chemically altered into submission, natural hair was something to celebrate.¹⁵ It is important to consider why we drifted so far from this way of thinking, which begs

⁹ Janice Gassam Asare, *Can A Company Tell Employees How to Wear Their Hair?*, FORBES (Oct. 24, 2018), <https://www.forbes.com/sites/janicegassam/2018/10/24/can-a-company-tell-employees-how-to-wear-their-hair/?sh=411f48305a0f>.

¹⁰ Jones, *supra* note 8, at 28; See also Brooklyn White, *Supreme Court Decides to Not Hear Lawsuit from Woman Who Lost A Job Over Locs Hairstyle*, TEEN VOGUE (May 24, 2018), <https://www.teenvogue.com/story/supreme-court-will-not-hear-locs-workplace-lawsuit>; Carly Stern, *Six Black Women Detail the Horrific Discrimination They've Faced Because of Their Hair*, DAILY MAIL (Aug. 25, 2020), <https://www.dailymail.co.uk/femail/article-8662305/Six-black-women-horrific-discrimination-faced-hair.html>; Kelsey Garcia, *The Reason This Woman Was Sent Home From Work Will Fill You With Rage*, POP SUGAR (Mar. 15, 2016), <https://www.popsugar.com/beauty/Woman-Fired-Wearing-Her-Natural-Hair-Spring-2016-40575790>; Suzanne Lucas, *Can Your Boss Tell You How To Wear Your Hair?*, CBS NEWS (Feb. 24, 2014), <https://www.cbsnews.com/news/can-your-boss-tell-you-how-to-wear-your-hair/>.

¹¹ Jones, *supra* note 8, at 28.

¹² Karen Grigsby Rates, *New Evidence Shows There's Still Bias Against Black Natural Hair*, NPR (Feb. 6, 2017), <https://www.npr.org/sections/codeswitch/2017/02/06/512943035/new-evidence-shows-theres-still-bias-against-black-natural-hair>.

¹³ Jameelah Nasheed, *A Brief History of Black Hair, Politics, and Discrimination*, TEEN VOGUE (Aug. 9, 2019), <https://www.teenvogue.com/story/a-brief-history-of-black-hair-politics-and-discrimination>. As long as black women have existed in America, they have been put down for their skin color, their bodies, and their natural hair. Areva Martin, *The Hatred of Black Hair Goes Beyond Ignorance*, TIME (Aug. 23, 2017), <https://time.com/4909898/black-hair-discrimination-ignorance/>.

¹⁴ Ashley Alese Edwards, *Who Decided Black Hair is So Offensive Anyway?*, GLAMOUR (Sep. 10, 2020), <https://www.glamour.com/story/black-hair-offensive-timeline>.

¹⁵ *Id.*

the larger question—when did damaging stereotypes come into existence?¹⁶ The answer, like many systemic issues with race in America, is rooted firmly in the origins of our country—with slavery.¹⁷ More specifically, the dehumanization of natural black hair traces back to Africa in the sixteenth century, when approximately 11,640,000 Africans were forcefully taken from their home continent to help colonize America.¹⁸ The culture shock these women experienced was inconceivable, as they suddenly had no choice but to abandon their sacred traditions and ultimately, their identities.¹⁹ Slave masters referred to the non-European texture of their native African hair as “wool.”²⁰ To further degrade them, slave traders placed more value on light-skinned Africans with soft hair.²¹ This spread the message that the darker your skin and the kinkier your hair was, the less attractive you were.²² Managing their hair was yet another obstacle these women faced. It became increasingly difficult for them to retain the more elaborate hairstyles, like dreadlocks, plaits or twists, without ample time and the proper tools.²³ As slaves, women were permitted only one day a week to tend to their hair, and they had to rely on things like kerosene, bacon grease, butter and thread.²⁴ Other women were not as lucky, having had their scalps shaved while aboard the slave ships to America.²⁵ Before they were forced into slavery, these women were taught to praise the beauty of intricate knots, braids, and twists. Suddenly, the hair that they once admired, and all that the styles symbolized, had just been erased—natural hair had become nothing more than a lifeless burden.

Fortunately, slavery was abolished in the United States in 1865, but this newfound freedom did not necessarily translate to a world

¹⁶ *Discovering Our Roots: Do I Hate My Hair?*, THIRSTY ROOTS, <https://thirstyroots.com/black-hair-history/discovering-our-roots-do-i-hate-my-hair> (last visited Apr. 9, 2021).

¹⁷ *Id.*; See also John R. Allen, *Systematic Racism and America Today*, BROOKINGS (June 11, 2020), <https://www.brookings.edu/blog/how-we-rise/2020/06/11/systemic-racism-and-america-today/>.

¹⁸ Rumeana Jahangir, *How Does Black Hair Reflect Black History*, BBC NEWS (May 31, 2015), <https://www.bbc.com/news/uk-england-merseyside-31438273>.

¹⁹ Susan Edwards, *Hair and History: A Short Blog on the Multifaceted African American History on Hair*, UHAI HAIR (Feb. 4, 2020), <https://uhaihair.com/blogs/news/hair-history-a-short-story-on-the-evolution-of-hair-in-the-african-american-community>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Discovering Our Roots: Do I Hate My Hair?*, *supra* note 16.

²⁴ Edwards, *supra* note 14; Edwards, *supra* note 19.

²⁵ *Id.*

transformed.²⁶ Even after emancipation, black women were made to feel inferior as there was still a growing notion that European textured hair was “good” and African textured hair was “bad.”²⁷ With that, most of the nineteenth century embodied the quest for straight hair.²⁸ Wigs, extensions, and chemical treatments became the means for black women to achieve society’s more desirable aesthetic.²⁹ However, the intensive methods women underwent to smooth their hair was far from an enjoyable process.³⁰ Changing hair texture and overall appearance required hot chemical mixtures to be poured onto scalps or heated electrical combs to be dragged through curls for hours.³¹ Still, assimilation was a means of survival for these black women, who were constantly urged to camouflage, so they could make more money, fit in easier, and move in society better.³² It was not until the Civil Rights Movement in the 1960’s that the black community rebelled against the racial segregation and oppression from American culture.³³ The afro became a political symbol of black activism, encouraging others to be unafraid to embrace the style, and take pride in their African ancestry for the first time in a long time.³⁴ Slowly but surely, ideals around straight hair began to shift and the need to conform to trends inspired by mainstream white fashions faded.³⁵ The natural hair movement emerged as a catalyst for black women to resurrect who they were naturally.³⁶ They took the leap to reclaim their roots and ignited the phrase “black is beautiful” to solidify the revolution.³⁷

Although there is no denying that our nation has come a long way, we are not nearly at the finish line yet. The law in many states does not currently afford protection for race-based hair discrimination,

²⁶ Jahangir, *supra* note 18.

²⁷ Madison Horne, *A Visual History of Iconic Black Hairstyles*, HISTORY.COM (Feb. 1, 2019), <https://www.history.com/news/black-hairstyles-visual-history-in-photos>; See also Ayana Byrd & Lori L. Tharps, *When Black Hair is Against the Rules*, N.Y. TIMES (Apr. 30, 2014), <https://www.nytimes.com/2014/05/01/opinion/when-black-hair-is-against-the-rules.html>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Jahangir, *supra* note 18.

³¹ *Id.*

³² Edwards, *supra* note 14.

³³ Jahangir, *supra* note 18.

³⁴ Edwards, *supra* note 19.

³⁵ Jahangir, *supra* note 18.

³⁶ Chime Edwards, *The Impact of the ‘Fro in the Civil Rights Movement*, ESSENCE (Feb. 10, 2015), <https://www.essence.com/holidays/black-history-month/impact-fro-civil-rights-movement/>.

³⁷ *Id.*; Horne, *supra* note 27.

even if the hairstyle is inherent to racial identity,³⁸ but efforts to eliminate discrimination based on hairstyle have recently gained more traction than ever before.³⁹ Black hair is now influencing politics instead of the other way around, with lawmakers finally recognizing that hair discrimination is real and needs to be addressed.⁴⁰ This is precisely why “Creating a Respectful and Open World for Natural Hair,” otherwise known as the CROWN Act, came into existence in 2019.⁴¹ The official campaign is led by the CROWN Coalition, an alliance of organizations founded by the hair care brand Dove, the National Urban League, the Western Center on Law and Poverty, and online racial justice organization Color of Change.⁴² The CROWN Act prohibits race-based hair discrimination, which the CROWN Coalition defines as “the denial of employment and educational opportunities because of hair texture or protective hairstyles including braids, dreadlocks, twists or bantu knots.”⁴³ After conducting a research study in 2019, the CROWN Coalition reported that black women are 1.5 times more likely to be sent home from the workplace because of their hair.⁴⁴ Additionally, black women are eighty percent more likely than white women to agree with the statement, “I have to change my hair from its natural state to fit in at the office.”⁴⁵ These upsetting statistics molded the message of the CROWN Act, which is that “people should not be forced to divest themselves of their racial cultural identity by changing their natural hair in order to adapt to predominantly white spaces in the workplace.”⁴⁶ It remains the mission of the CROWN Act to correct racial injustice by making it illegal to discriminate against a person in the workplace or in schools because of their natural or protective hairstyle, thereby creating a more equitable and inclusive beauty experience for black women, men, girls, and boys.⁴⁷

³⁸ *The CROWN Act: Working to Eradicate Race-Based Hair Discrimination*, DOVE, <https://www.dove.com/us/en/stories/campaigns/the-crown-act.html> (last visited Apr. 9, 2021).

³⁹ Edwards, *supra* note 14.

⁴⁰ *Id.*

⁴¹ Ashley Alese Edwards, *Was It Our Hair? Or Was It You?*, GLAMOUR (Aug. 25, 2020), <https://www.glamour.com/story/the-crown-act-september-2020-cover-story>.

⁴² *Legislative Efforts Taking on Hair Discrimination*, 30 No. 9 Cal. Emp. L. Letter 8 (Mar. 9, 2020).

⁴³ *The CROWN Act*, <https://www.thecrownact.com> (last visited Apr. 9, 2021).

⁴⁴ *Id.*; See also, JOY Collective, *The Crown Research Study*, C.R.O.W.N. Research Study (2019), https://static1.squarespace.com/static/5edc69fd622c36173f56651f/t/5edeaaa09a3c4b1e68d153af/1591650978262/DOVE_2019HAIR_reseach.pdf.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *The CROWN Act: Working to Eradicate Race-Based Hair Discrimination*, *supra* note 38. While black women and men have fought against hair discrimination in the workplace by taking their employers to court,

The CROWN Act has been signed into law by seven states as of April of 2021: California, New York, New Jersey, Virginia, Colorado, Washington and Maryland.⁴⁸ Progress is indeed being made with this long-overdue initiative, but support from only a handful of states will not suffice. In September of 2020, promising news circulated when the United States House of Representatives passed the CROWN Act.⁴⁹ To put it rather simply, now at least fifty-one of one-hundred United States Senators will have to approve the legislation before it is then handed to the President, who has the final choice to veto or sign it into law.⁵⁰ If approved by Senate and the President, the protections of the CROWN Act would automatically apply to all fifty states.⁵¹ It is of the utmost importance that our nation's policymakers recognize that this legislation puts an end to penalizing black women for simply existing as themselves.⁵² Whether black women view their hair as a connection to their ancestors, as a form of expression, or just a matter of looking cute, one thing is for sure—a natural hairstyle has no impact on a woman's ability to be a leader and do her job.⁵³ Policymakers hold the power to move the world closer to justice and push for bills that aim to

the problem is deeply rooted in our culture and it shows up in schools nationwide. Jesse Washington, *The Untold Story of Wrestler Andrew Johnson's Dreadlocks*, THE UNDEFEATED (Sep. 18, 2019), <https://theundefeated.com/features/the-untold-story-of-wrestler-andrew-johnsons-dreadlocks/>; See also Brenda Alvarez, *When Natural Hair Wins, Discrimination in School Loses*, NATIONAL EDUCATION ASSOCIATION (Sep. 17, 2019), <https://www.nea.org/advocating-for-change/new-from-nea/when-natural-hair-wins-discrimination-school-loses>; Leah Asmelash, *Black Students Say They Are Being Penalized For Their Hair, And Experts Say Every Student Is Worse Off Because Of It*, CNN (Mar. 8, 2020), <https://www.cnn.com/2020/03/08/us/black-hair-discrimination-schools-trnd/index.html>; Janelle Griffith, *When Hair Breaks Rules: Some Black Children Are Getting In Trouble For Natural Hairstyles*, NBC NEWS (Feb. 23, 2019), <https://www.nbcnews.com/news/nbcblk/when-hair-breaks-rules-some-black-children-are-getting-trouble-n973346>.

⁴⁸ Jacqueline Laurean Yates, *National Crown Day: 7 States Have Passed Laws to Ban Natural Hair Discrimination*, GOOD MORNING AMERICA (July 2, 2020), <https://www.goodmorningamerica.com/style/story/national-crown-day-states-passed-laws-ban-natural-71574191>. On July 3, 2019, California became the first state to legally protect the hair of black women. Nine days later, New York followed suit and became the second state to criminalize hair discrimination. Nasheed, *supra* note 13.

⁴⁹ Emily Tannenbaum, *The CROWN Act Was Just Passed by the House of Representatives*, GLAMOUR (Sep. 22, 2020), <https://www.glamour.com/story/the-crown-act-banning-hair-discrimination>.

⁵⁰ Aimee Simeon, *The House Just Passed a Bill That Could End Natural Hair Discrimination Nationwide*, REFINERY 29 (Sep. 22, 2020), <https://www.refinery29.com/en-us/2020/09/10041077/the-crown-act-passes-house-of-representatives>.

⁵¹ Tannenbaum, *supra* note 49.

⁵² Nicola Dall'asen, *The CROWN Act Was Approved By The House, But It Still Needs Your Help*, ALLURE (Sep. 22, 2020), <https://www.allure.com/story/the-crown-act-congress-senate-passage>.

⁵³ Edwards, *supra* note 41.

eradicate systematic racism in all walks of life.⁵⁴ That said, there is no better time for the American people to speak up and let their legislators, both state and federal, know that they stand behind the CROWN Act.⁵⁵ Enough is enough—the CROWN Act must become the law of the land.

⁵⁴ Darian Symone Harvin, *The CROWN Act Should Be Passed In All Fifty States, So Why Hasn't It?*, HARPER'S BAZAAR (Oct. 9, 2020), <https://www.harpersbazaar.com/beauty/hair/a34316254/crown-act-federal-and-state-hair-discrimination-law/>.

⁵⁵ *Id.*; See also Jenna Rosenstein, *How You Can Support the CROWN Act to End Hair Discrimination*, HARPER'S BAZAAR (Oct. 9, 2020), <https://www.harpersbazaar.com/beauty/hair/a34207816/how-to-pass-crown-act/>.