

PART VIII: Task Force Recommendations for Appropriate Ways to Educate the California Public About the Task Force’s Findings, and for Addressing Questions About Reparations. (Gov. Code, §§ 8301, subd. (b)(2), 8301.1, subd. (b)(2))

Chapter 33: Educating the Public & Potential Questions and Responses to Questions About Reparations

I. Introduction

AB 3121 charges the Task Force with recommending appropriate ways to educate the California public of the Task Force’s findings.¹ To achieve this goal, the Task Force consulted academic experts to develop a concept for educating students of all ages and backgrounds, as well as the public in general, through a curriculum designed to make the Task Force’s work accessible.

The Task Force recommends that the Legislature adopt the concepts discussed herein, which the Task Force developed with the support of these experts, as a standard curriculum. The Task Force further recommends that the Legislature fund the implementation of age-appropriate curricula across all grade levels, as well as the delivery of these curricula in schools across California. The Legislature should also create a public education fund, specifically dedicated to educating the public about African American history, and support the initial and ongoing education about the Task Force’s findings. Additionally, in order to facilitate ongoing conversations in communities across California following the publication of this report, the Task Force has developed materials included within this chapter that will help answer some potential questions people may have about reparations. These questions are expected to come from, and the answers should be responsive to, both those who support reparations, but want to better understand their justification, those who might be unaware of the need for or purpose of reparations, and those who are opposed to reparations but may benefit from additional information.

II. Educating the Public

a. The Task Force’s Initial Efforts to Educate the Public

In order to begin the process of educating the public about the significant findings and recommendations contained in this report, the Task Force engaged in extensive outreach, both through its members and through the Bunche Center at UCLA, as detailed in Chapter 32 of this report. All of the Task Force’s meetings took place in public, either via a videoconference platform or through in-person meetings that took place in San Francisco (March 2022), Los Angeles (September 2022), Oakland (December 2022), San Diego (January 2023), Sacramento (March 2023), East Bay (May 2023), and [location] (June 2023), with all meetings also live-streamed through the California Department of Justice’s website. All materials considered by the Task Force in these meetings were posted on the website hosted by the Department of Justice for

¹ Gov. Code, §§ 8301, subd. (b)(2); 8301.1, subd. (b)(2).

the Task Force’s administrative support, <https://oag.ca.gov/ab3121>. These materials have included not only drafts of report components and expert reports considered by Task Force members to generate legislative recommendations contained in this report, but also presentations made to the Task Force by witnesses appearing before it and public comments and emails submitted to the Task Force’s email intake portal. Various members engaged in community outreach and engagement through national and local news media broadcast and social media, and appeared on numerous panels and at events addressing the subject matter of the Task Force’s work. Following the issuance of its Interim Report in June 2022, the Task Force received scores of organizational endorsements of the work of the Task Force or the study of reparations or both. This support has come from large and small organizations, including social service providers, bar associations, civil rights advocates, professional national psychological associations, educators and social workers, and groups representing the faith community.

The work of the Task Force has prompted individuals and organizations to pursue independent public education initiatives, including a docuseries based on the harms chronicled in this report, and documentary video/films capturing remarks by Task Force members, and/or the Task Force’s proceedings, findings, and recommendations. The Task Force anticipates that these productions will contribute to the public’s understanding of the reverberating impact of 246 years of enslavement and its lingering effects, and generate discussion and support for reparations for African Americans in California. Therefore, while these independent projects are neither subject to approval nor endorsed by the Task Force, the Task Force welcomes and encourages the wide dissemination, across multiple platforms, of the information contained in this report.

The groundbreaking work of the Task Force, its members, consulting experts, and the attorneys, researchers and staff of the California Department of Justice’s Civil Rights Enforcement Section and Research Center to illuminate a history of discrimination and its resulting harms--heretofore ignored, buried, or willfully forgotten--has established the foundation for further educational efforts to make clear the necessity for policies to address such harms, and deter their repetition.

b. Principles Underpinning a Concept to Educate the General Public

The Task Force recommends that the Legislature continue the development of a curriculum based upon the Task Force’s final report for grades 9-12 school students. In furtherance of this recommendation, the Task Force retained two professors, Dr. Travis J. Bristol, an associate professor of teacher education and education policy at the University of California, Berkeley, School of Education, and Dr. Tolani A. Britton, assistant professor at the University of California, Berkeley, School of Education, to advise the Task Force on the structure, components, and process of an appropriate curriculum and pedagogy. Their feedback provided the basis on which the Task Force formulated the recommendations set forth in this chapter.

The development of such curriculum will benefit the public at large, including students in other states, by teaching a major portion of American history that is largely unknown. For example, Chapters 1-13 of the report summarize the harms and “lingering negative effects of the institution of slavery and [] discrimination . . . on living African Americans and on society in California and the United States.”² Chapter 32, further details the legacy of these historical and present-day harms. And Chapters 34-40 detail the vast extent to which federal and California laws that created a system of subjugation of African Americans as a group and exacerbate lingering material and psychosocial effects of the enslavement and post-enslavement periods.

The initial work of professors Bristol and Britton will focus on grades 9-12, but as discussed below, the Task Force further recommends that the Legislature fund the establishment and implementation of standard educational programming at age-appropriate grade levels, from early elementary through college.

In addition, the Legislature should ensure that the Task Force’s final report is circulated as widely as possible, in both electronic and paper formats, throughout California, including to universities and colleges, schools, governmental bodies, libraries, private organizations, and other institutions as well as to members of the public, and that translated versions be available in Spanish, and other languages that are frequently used at the state and local level, as appropriate.

The Task Force believes that the Legislature should be mindful of several important goals in ensuring the public is educated about both the critical historical information contained in the Task Force’s report and the Task Force’s findings and recommendations. The Legislature should also seek to build a collective base of knowledge, to inform racially diverse communities and to appeal to different ways of learning. California is an extremely diverse state, and so the task of educating the public should be approached in a manner that will ensure that educational content be accessible to every Californian. Because few subjects in America are more difficult to discuss, more polarizing, and more prone to misinterpretation than race, California’s education effort should also be designed to encourage honest, informed conversations about race in the general public, in schools, religious institutions, at the dinner tables and in the board rooms, as well as in other parts of society. Conversations in the absence of factual historical and contemporary issues opens the door to increased polarization, misunderstanding and division. This can inspire reflection and requisite action that supports the more perfect union that has been repeatedly cited as a foundational principle for California and the nation.

As documented in this report, the harm to African Americans spans centuries, and therefore, the repairs should be long in the implementation, involving immediate remedial action, a longstanding commitment scaled over years to address the enormous harm, and ensure guarantees of non-repetition. Accordingly, broad public education about the Task Force’s findings will help effectuate these outcomes.

To ensure that this report and its call for reparations is not a passing moment to be soon forgotten, the Task Force recommends that there be consistent messaging to create a common

² Gov. Code, §§ 8301, subd. (b)(1)(C).

understanding that reparations is fundamentally about justice—one that should matter to all Californians because it goes to the heart of the ideals that America aspires to embody. Concise statements and simplified messaging should be developed (e.g. through video, infographics, slogans, and tag lines) to define what “reparations” means, to make this complex and contentious subject matter easier to understand, and to reveal that this is an issue in which all Americans should have a vested interest. It goes to the heart of who we say we are as a nation and as a state.

c. Public Education Fund

The Task Force also recommends that the Legislature create a public education fund, specifically dedicated to educating the public about African American history in the United States and in California. One model for such a Public Education Fund can be found in the Japanese American incarceration reparations commission’s recommendation of a Civil Liberties Public Education Fund (CLPEF), the government-sponsored program that was developed out of the Civil Liberties Act of 1988.³ The CLPEF’s mission was to educate the public on the issues surrounding the wartime incarceration of Americans of Japanese ancestry. In 1996, President Bill Clinton appointed a board of directors to oversee its operation.⁴

The CLPEF board’s stated mission was to publish and distribute the records of the hearings, findings, and recommendations of the Commission on Wartime Relocation and Internment of Civilians (CWRIC), so that the events surrounding the exclusion, forced removal, and incarceration of persons of Japanese ancestry would be remembered, and so that the causes and circumstances of this and similar events would be illuminated and understood.⁵ It was also charged with making disbursements of \$5 million in federal funds. A portion was used to republish the findings of the CWRIC. The CLPEF also oversaw the editing of the over 4,500 pages of transcripts from the hearings of the CWRIC to provide a complete and accessible record for the public’s use in understanding what occurred and the rationale for the reparations program implemented at the Commission’s recommendation.

Aside from this work of making the Commission’s record accessible, an additional \$3.3 million was distributed to fund 135 projects, including 18 national fellowships in the areas of curriculum, landmarks/exhibits, art/media, community development, research, research resources, and national fellowships. Among the diverse recipients from 20 states and the District of Columbia were museums, educational institutions, libraries, artist and theater groups, as well as individuals. Projects ranged in funding from \$2,000 to \$100,000.⁶

In 1997, CLPEF held a national curriculum summit involving 50 curriculum grant recipients and educators, with the goal of integrating lessons learned into a national education curriculum. CLPEF also held a national conference in San Francisco in 1998, to allow grant recipients to

³ Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians, Part 2: Recommendations* (June 1983), p. 9.

⁴ Densho Encyclopedia, at <https://encyclopedia.densho.org/Civil_Liberties_Public_Education_Fund/> (as of Apr. 14, 2023).

⁵ *Ibid.*

⁶ *Ibid.*

share and discuss their projects. Earlier in the same year, the CLPEF and the Smithsonian Institution co-sponsored national Days of Remembrance in Washington, D.C., to commemorate President Franklin D. Roosevelt's signing of Executive Order 9066, and to call national attention to this landmark event. Several public service announcements were also produced with CLPEF funds.⁷

After the federal CLPEF expired in 1998, the California Civil Liberties Public Education Program (CCLPEP) continued and extended the work of the federal effort. The CCLPEP sponsored projects to ensure that “events surrounding the exclusion, forced removal and internment of citizens and permanent residents of Japanese ancestry will be remembered so that the causes and circumstance of this and similar events may be illuminated and understood.”⁸ In 1998, the California Civil Liberties Public Education Act authorized \$1 million in state funding to support the development of educational resources about WWII incarceration and the importance of protecting civil liberties, even in times of national crisis. Administered by the California State Library, CCLPEP awarded nearly \$9 million over 12 years to nonprofit organizations, colleges and universities, public libraries, community groups, teachers, writers, researchers, and artists.⁹

Like its federal predecessor, CCLPEP funded a wide variety of projects including: books; videos (documentaries or films); curricula (lesson plans as well as teachers' guides and/or teacher training sessions); exhibits; collections or digitization of existing collections; oral histories; artistic works, including poetry, music, and art installations; conferences, field trips, or other types of special events; academic resources and research; memorials or public honors; and website development.¹⁰

CCLPEP's competitive grant program also supported the creation and dissemination of educational and public awareness resources concerning the history and the lessons of civil rights violations or civil liberties injustices carried out against communities or populations. These included civil rights violations or civil liberties injustices that are perpetrated on the basis of an individual's race, national origin, immigration status, religion, gender, or sexual orientation.¹¹

The Task Force recommends that the Legislature adopt a public education fund model that similarly allows for versatile projects to support public education, including curricula, audio books, public arts displays, literary works, documentary films, student essay contests, seminars, podcasts, and any other media that may be appropriate to educate all Californians about “[t]he lingering negative effects of the institution of enslavement and the discrimination described in

⁷ *Ibid.*

⁸ Educ. Code § 13000(a); Assembly Bill (“AB”) 491 created an advisory board and brought additional funding to the California Civil Liberties Public Program. Assem. Bill No. 491 (20217 Reg. Sess.).

⁹ Densho Encyclopedia, at https://encyclopedia.densho.org/California_Civil_Liberties_Public_Education_Program/ (as of Apr. 14, 2023)

¹⁰ *Ibid.*

¹¹ California State Library, California Civil Liberties Program, at <<https://www.library.ca.gov/grants/civil-liberties/>> (as of Apr. 14, 2023).

[this report] on living African Americans and on society in California and the United States” and all of the findings and recommendations set forth in this report.¹²

d. Ensuring the Curriculum Benefits the African American Community, including Descendants of people enslaved in the United States

Not only should an appropriately-developed and comprehensive curriculum benefit California children and the public generally, it should also be designed with the goal of specifically educating the African American community, particularly children who are Descendants of people enslaved in the United States. Access to a culturally relevant and sustaining curriculum increases engagement and academic outcomes for students from diverse racial and ethnic groups.¹³ For example, one seminal study found that when high school students from historically marginalized racial and ethnic groups that were at-risk of dropping out took an ethnic studies course, their attendance rate increased by 21 percent, their grade point average increased by 1.4 points, and they earned, on average, 23 more credits.¹⁴ Another study found longer-term benefits for students of color who had been enrolled in an ethnic studies course, including that these students had higher rates of attendance and graduation, and an increased likelihood of attending college when compared to their peers who did not have access to an Ethnic Studies course.¹⁵ While culturally relevant work remains important for all students, disengagement in high school is associated with less positive life outcomes such as a lower likelihood of high school graduation and college enrollment.¹⁶ Since high school is an important time to prepare students for life and a career, part of that preparation should include a curriculum that speaks to both the structural challenges and opportunities that children face in their learning and life.

Given the clear and compelling evidence on the short- and long-term positive academic impacts of curriculum on students of color,¹⁷ there is a particular urgency to develop a curriculum that centers the historical and contemporary lived experiences of African American students in California. On both academic *and* non-academic outcomes, African American students perform at lower levels when compared to their peers. For example, in the 2021-2022 school-year, only 30 percent of African American students performed at or above grade level on the California

¹² Gov. Code, §§ 8301, subd. (b)(1)(C).

¹³ Bristol, T.J. (2015). Teaching Boys: Towards a theory of gender relevant pedagogy. *Gender and Education*, 27(1), 53-68; Ladson-Billings, G. (2014). Culturally relevant pedagogy 2.0: A. K. A. the remix. *Harvard Educational Review*, 84(1), 74–84; Paris, D., & Alim, H. S. (Eds.). (2017). *Culturally sustaining pedagogies: Teaching and learning for justice in a changing world*. Teachers College Press.

¹⁴ Dee, T. S., & Penner, E. K. (2017). The causal effects of cultural relevance: Evidence from an ethnic studies curriculum. *American Educational Research Journal*, 54(1), 127-166.

¹⁵ Bonilla, S., Dee, T. S., & Penner, E. K. (2021). Ethnic studies increases longer-run academic engagement and attainment. *Proceedings of the National Academy of Sciences*, 118(37), e2026386118.

¹⁶ Henry, K. L., Knight, K. E., & Thornberry, T. P. (2012). School disengagement as a predictor of dropout, delinquency, and problem substance use during adolescence and early adulthood. *Journal of youth and adolescence*, 41, 156-166.

¹⁷ Dee & Penner, *supra*.

Assessment of Student Performance and Progress (CAASPP) literacy assessment, compared to 61 percent of white students.¹⁸ Similar outcome disparities arise in the CAASPP math assessment.¹⁹

e. The Task Force Recommends a Reparations Curriculum

In order to educate Californians about the findings and recommendations of the Reparations Task Force, and because of the stubborn opportunity gap between African American students and their peers, the Reparations Task Force recommends that the Legislature fund the development and implementation of a standard curriculum encompassing the contents of this final report. In rendering this recommendation, the Task Force recognizes that access to a curriculum that reflects the diversity of an increasingly interconnected world will allow *all* of California's children to expand their understanding of our state and nation. The Task Force recommends that grade-level appropriate curricula be developed across every grade level, and the initial curriculum should be designed for high school students and young adults, followed by a curriculum for younger children, and one specifically for young adults in carceral settings. These curricula could also be adapted for use by adult residents for community popular education aimed at increasing civic engagement. Finally, a curriculum should be developed for advanced learning and to further the academic study of these issues at the college and university level. The proposed curriculum should be cross-disciplinary and seek to connect history, literature, math, and science, as the final report details the breadth of the harms that need to be understood by the public. The curriculum should include lessons on reparations that can be embedded in existing required high school coursework.

The Task Force offers the following detailed design plan, developed in consultation with the Task Force's educational curriculum experts, Dr. Travis J. Bristol, and Dr. Tolani A. Britton, of the University of California, Berkeley, School of Education.

The initial steps require that specific lead curriculum designers be designated and have a clear sense of the scope of the curriculum. Those leads, and their selected teams, should conduct a landscape analysis of existing Black or African American studies high school curricula. This should include extensive engagement with teachers and community programs that have developed and are delivering coursework on Black or African American studies and/or reparations. The planning team should execute a pre-institute day, in which a consultation group comes together to share curriculum design ideas in workshops, based on existing reparations lessons and begins the collective design process. During this process, the team should consider all ideas, including unique and novel ones.

Following this initial process, the design teams should develop a draft outline of model curriculum with the lead curriculum co-designers. Using high school as an example, the outline

¹⁸ California Department of Education (2022). 2017 - 2022 CAASPP ELA/Literacy Results for All Achievement Levels by Selected Race/Ethnicity. Retrieved from <https://www.ed-data.org/state/CA>.

¹⁹ See EdSource, [State of California](#) (as of Apr. 11, 2023).

should differentiate content across grade levels 9-12. The team should design essential questions based on each chapter of the reparations report, appropriate for grade levels 9/10 and 11/12. The team should then scope and sequence the curricular units based on each chapter of the report, as appropriate for grades 9/10 and 11/12. Finally, the team should ensure the essential questions cut across content areas and align to Common Core State Standards.

In order to test the conceptual product, the design team should run one or more one-week curriculum institutes, both virtually and in-person, to refine the outline of the model curriculum with various groups of teachers, students, and community-based educators. The participants should be surveyed about the process and contents of the curriculum, and the lead team should meet to review the results, assess progress and feasibility, and assess the remainder of the process.

Following the completion of this preliminary concept development, the lead team of curriculum co-designers should proceed with working with selected teachers, students, and community-based educators to pilot activities related to the implementation and real-world testing of the model curriculum and collect lesson examples for each content area across grades 9/10 and 11/12. The lead team should convene smaller work groups of teachers based on grade and subject taught. These groups should meet at least three times per semester. The smaller work groups and the larger group of teachers, students, and community-based educators should have one or more dedicated meetings that include design time and feedback loops in small groups based on the grade and subjects taught in order to fine-tune the contents and deployment of the curriculum.

This process should be followed by further demonstration and test sessions—both in person and virtual—to solicit feedback for curricular content across content areas for grades 9/10 and 11/12, from students, community-based educators, school-based teachers, parents, and administrators. The design team should develop assessments based on student work from the test period for curricular content across content areas for grades 9/10 and 11/12.

Following the development of the curriculum using this model recommended by the Task Force, the design team should produce a report detailing the methodology for the development of the curriculum and make the curriculum widely available. The Task Force recommends that the Legislature hold hearings at an appropriate time to study the development and contents of the curriculum and, subject to the Legislature’s findings with regard to the curriculum, fund and otherwise encourage its implementation across the state.

III. Frequently Voiced Misconceptions or Questions About Reparations, and Responses Thereto.

With any major initiative such as the comprehensive approach to reparations recommended by the Task Force in this report, it is natural that there would be questions from members of the

public, whether supportive of, opposed to, or simply seeking answers about reparations. The following are anticipated questions and responses to concerns that members of the public may have about reparations for African Americans in the State of California. This section is not intended to be exhaustive. Instead, the Task Force offers it as a perspective to contribute to a developing national public dialogue and to encourage these difficult and essential conversations in the homes of every American. The answers provided here are intended to ensure that there are clear responses to challenges to reparations, as well as to help facilitate those conversations.

California was a “free state,” not a “slave state,” so why should it be responsible for reparations at all?

Though California entered the Union in 1850 as technically a free state, the state government at the time nonetheless permitted and committed grave injustices against African Americans and allowed its residents to enslave African Americans. These injustices—which all took place *in California*—included enslavement, legal public and private segregation, discrimination in state funding and programming, and stigmatization that upheld a white supremacist racial hierarchy that remains in place to this day.

California fugitive slave law. California passed and enforced a fugitive slave law, and some scholars estimate that up to 1,500 enslaved African Americans lived in California in 1852.²⁰ In fact, numerous individuals who actively supported the Confederacy moved to California before and during the Civil War and brought with them or sent ahead the persons they enslaved and saw as their chattel property to work farms and ranches they owned and to mine gold on the enslavers’ behalf.²¹ Some of these individuals established leadership roles in our young state; for example, Confederate John LeConte, a physicist who employed his scientific knowledge to make gunpowder for the Confederate army, was UC-Berkeley’s first acting president.²² Enslaved people labored under violent conditions, and even “free” African Americans lived under racist laws that restricted their rights and rendered them vulnerable to violence and exploitation.²³ Thus, California bears direct responsibility for atrocities that occurred during the enslavement era, which can only be redressed through comprehensive reparations.

California and the Fourteenth and Fifteenth Amendments. Enslavement, even with all its atrocities and horrors, is far from the lone basis for the case for reparations at either the national or state level. Post-enslavement atrocities, as detailed in this report, are a critical dimension of the account for reparations. For example, during Reconstruction, Congress passed the Fourteenth Amendment, which promised equal rights for all citizens, and the Fifteenth Amendment, which

²⁰ interim report at p. 7

²¹ ADD CITE, preferably to/from first 13 chapters.

²² Dowd, UC Berkeley may rename halls honoring white supremacist, anthropologist, SFGate (July 7, 2020), UC Berkeley may rename halls honoring white supremacist, anthropologist (as of Apr. 20, 2023).

²³ See, e.g., Chapter __, pp. __; Black Testimony Exclusion Law, Colored Conventions Project, <https://coloredconventions.org/california-equality/life-and-politics/black-testimony-exclusion-law/> (as of Apr. 20, 2023).

prohibited states from denying a person’s right to vote on the basis of race, but California did not ratify these amendments until 1959 and 1962, respectively.²⁴

California and the Ku Klux Klan. After slavery ended in 1865, Jim Crow found a home in California. For example, in the 1920’s, California became a “strong Klan state” with a sizable Ku Klux Klan presence in Los Angeles, Oakland, Fresno, Riverside, Sacramento, Anaheim, and San Jose.²⁵

Housing Segregation. In the decades that followed, federal, California, and local government, acting with private actors, created and intensified housing segregation. Government actions intertwined with private action and segregated America, leading to enormous wealth disparities that continue to this day, environmental harms, unequal educational and health outcomes, vast wealth differentials, and over-policing of Black neighborhoods in California and across the nation.²⁶ For example, California allowed extensive use of racially restrictive covenants and they were widely used throughout the state.²⁷ By 1940, according to the 1973 U.S. Commission on Civil Rights Report, 80 percent of homes in Los Angeles contained restrictive covenants barring African American families.²⁸ Some of these covenants remain a part of public record. From 1937 to 1948, more than 100 lawsuits attempted to enforce covenants and evict Black families from their homes in Los Angeles.²⁹

In other words, while California was nominally a “free state,” it was deeply complicit with the institution of slavery, an active participant in perpetuating its badges and incidents, and in the decades that followed, implemented laws and policies infected with racism. California laws and policies targeting African American people flowed from the institution of enslavement and continue to reverberate to this day, resulting in the cumulative, compounding and cascading inter-generational harm experienced by African American Californians today.

The United States fought a Civil War to end enslavement and implemented Reconstruction programs, why wasn’t that enough to address the harms caused by the practice?

Merely ending enslavement did not provide reparations for enslavement.³⁰ The Civil War did not provide compensation for the atrocities committed on enslaved persons before the war. Additionally, the emancipation of those who were enslaved could have been achieved without the war, as proposed by President Abraham Lincoln in 1862,³¹ and white people alone did not deliver freedom—Black Americans fought beside them in the Union army and risked their lives to emancipate themselves.³²

²⁴ ADD CITE.

²⁵ Hudson, *supra*, at pp. 171-72.

²⁶ See, e.g., [ADD CITES TO PRECEDING CHAPTERS WHERE DISCUSSED AND DOCUMENTED]

²⁷ [citation]

²⁸ *Understanding Fair Housing*, U.S. Commission on Civil Rights, (Feb. 1973) at p. 4.

²⁹ Rothstein, *supra*, at pp. 80-81.

³⁰ See Darity and Mullen, *From Here to Equality: Reparations for Black Americans in the Twenty-First Century* (2nd ed. 2022) p. 246.

³¹ Darity and Mullen, *supra*, at pp. 100-101.

³² CITE

Even after the Civil War ended slavery in 1865, the South was determined to retain laws and practices as close to the enslavement system as possible—and in many ways succeeded.³³ For 246 years, the United States had built one of the largest and most profitable enslaved labor economies in the world³⁴ with almost four million enslaved people,³⁵ and cotton was the economic engine that powered the nation. The Constitution protected enslavement and gave Southern states outsized political power.³⁶ Half of the nation's pre-Civil War presidents were enslavers while in office.³⁷ More than 1,700 Congressmen, representing 37 states, once enslaved African Americans.³⁸

At the end of the Civil War, Congress seized land from wealthy Southerners intending to distribute 40 acres to each formerly enslaved person to address the harms of slavery.³⁹ In January 1865, 400,000 acres in South Carolina and Georgia were deeded to 40,000 formerly enslaved who settled on and worked the land.⁴⁰

But by April of 1865, Lincoln had been assassinated. Vice President Andrew Johnson assumed the Presidency, and soon declared, “This is a country for white men, and by God, as long as I am President, it shall be a government for white men[.]”⁴¹ Johnson rescinded the land reparations program, ordered the Black settlers off land they owned, and returned it to former enslavers.⁴²

In the end, four million men, women and children across the nation were released from enslavement without acknowledgment or apology; compensation; or resources. There were no meaningful or lasting changes to laws, institutions, or systems; none of the requisite legal, medical, psychological, and other care and services. All of the disparities detailed in this report result directly from the subjugation of African American during slavery, and the comprehensive legal, political, financial, and social systems established thereafter to maintain the oppression of

³³ CITE TO WHERE DOCUMENTED IN INTERIM REPORT CHAPTERS.

³⁴ Baptist, *supra*, at p. xxiii.

³⁵ Bourne, “Slavery in the United States,” EH.Net, Economic History Association, <https://eh.net/encyclopedia/slavery-in-the-united-states/>

³⁶ Baptist, *supra*, at pp. 9 – 11. For an in depth discussion, see Chapter 2, Section V. C.

³⁷ See Rosenwald, *Slave-owning presidents become targets of protestors* (June 3, 2020) Washington Post < <https://www.washingtonpost.com/history/2020/06/23/slave-owning-presidents-become-targets-protesters/> > (as of Jan. 24, 2022).

³⁸ Weil and Adrian Blanco, *More than 1,700 Congressmen Once Enslaved Black People. This Is Who They Were, and How They Shaped the Nation* (Jan. 20, 2022) Washington Post <https://www.washingtonpost.com/history/interactive/2022/congress-slaveowners-names-list/?utm_campaign=wp_post_most&utm_medium=email&utm_source=newsletter&wpisrc=nl_most&carta-url=https%3A%2F%2Fs2.washingtonpost.com%2Fcar-ln-tr%2F35b8b59%2F61dc6b2f9d2fda14d7e8b144%2F596c43ceade4e24119c923f2%2F8%2F72%2F61dc6b2f9d2fda14d7e8b144> (As of January 24, 2022) (Weil and Blanco).

³⁹ CITE

⁴⁰ CITE

⁴¹ Petrella and Loggins, “*This is a Country for White Men*”: *White Supremacy and U.S. Politics* (Jan. 5. 2017) Black Perspectives, African American Intellectual History Society < <https://www.aaihs.org/this-is-a-country-for-white-men-white-supremacy-and-u-s-politics/> > (as of March 15, 2022).

⁴² CITE

African Americans and Descendants. Moreover, these were the harms visiting on those *living* at the time of emancipation—thousands upon thousands did not live to see emancipation.

And for the descendants of those who were enslaved, 90 years of Jim Crow subjugation followed, during which California was an active participant in the exclusionary laws and practices that swept the nation. Legal segregation in the United States ended only about 50 years ago,⁴³ but its effects have had lasting and devastating impact, and there has been no meaningful repair.

Since the Civil War, the United States and California have both implemented many programs to try to foster equality – especially in housing, education, and government programs. Why do we need reparations and more policy changes when we have already done so much?

While many programs have been implemented, as discussed in this report, most if not all of them benefitted non-African American individuals of color or even white people more than they ever benefitted African Americans, much less descendants of – or formerly enslaved persons themselves – following emancipation. In fact, beginning with the Homestead Act of 1862, which gave over a million white households 160-acre land grants in the western territories, all the way through the expansion of government assistance programs during the 1930s New Deal era, government programs in these areas consistently *excluded* African Americans.⁴⁴ Today, the majority of recipients of government assistance are white.⁴⁵ And specifically with regard to “welfare,” these types of programs do not address the group-specific harms directed at descendants of enslaved persons or the African American community more generally, nor were they so intended. They do not pay the debt owed for unpaid labor, nullification of generational wealth production, denial of humanity, creation of a permanent a slave race status, an ever-present psychic state of terror and impending threat and doom, and a state of perpetual antiblackness with no recognized social existence (Jung & Vargas, 2021).

With respect to housing and education, America is as segregated today as it was in the 1940s when the wholesale exclusion of African Americans from equal education, employment, and the benefits of the New Deal, like federally insured home loans, deprived them of choices as fundamental as where they would live. The opportunities that created America’s *white* middle class, resulting in white households having nine times more assets than African American households, have simply never been accessible to the African American community. The cumulative, unrelenting impact of centuries of anti-Black law and policy has led us to where we stand today, with African Americans having shorter life expectancies than the rest of the population, African American women dying at three to four times the rate of white women from complications related to pregnancy or childbirth, and huge persistent disparities in nearly every aspect of American life, from houselessness to policing. All of these disparities result not only

⁴³ Darity and Mullen, *supra*, at pp. 100-101

⁴⁴ CITE where discussed in first 13 chapters. If necessary, can cite to https://www.pbs.org/race/000_About/002_04-background-03-02.htm.

⁴⁵ King, [New Interactive Data Tool Shows Characteristics of Those Who Receive Assistance From Government Programs](#) (May 24, 2022) United States Census Bureau (as of Mar. 13, 2023).

from the subjugation of African Americans during enslavement, but also to the comprehensive legal, political, financial, and social systems established thereafter to maintain the oppression of African Americans and Descendants.

Similarly, affirmative action was not intended to be reparations. Affirmative action policies developed as an antidiscrimination measure to create opportunities for unjustly excluded groups whose members could not gain entrance despite their qualifications and merit.⁴⁶ It does not compensate for keeping those groups out in the past. Furthermore, affirmative action alone cannot eliminate the Black-white wealth inequality which is a main goal of reparations.⁴⁷ Affirmative action programs have also been very limited, and they have failed to remedy the gross disparities and discrimination in employment, housing, wealth, and income to which African Americans continue to be subjected. Finally, governmental affirmative action has not existed in California for more than 25 years, since the passage of Proposition 209 in 1996.

The United States is a nation of self-made success in which lots of people have suffered harms but have not looked to the government to solve their problems. Why should the government step in here to address these issues?

This is simply not true; when people have been victimized, when tragedy strikes, and when a large group of people are collectively impacted by an event, our history includes numerous examples of the government stepping in to provide reparations—in the form of compensation paid for a harm suffered. For example, the federal and state governments have compensated farmers, fishermen, veterans, people exposed to pesticides or other toxic chemicals, miners affected by black lung disease, and those whose properties have been damaged in a natural disaster. Those reparations programs seem to find wide acceptance by the public, including those not affected by the underlying harm. Why then the double standard when it comes to reparations to descendants of enslaved persons and those who continue to suffer its legacy?

In addition, when someone commits a crime, the state requires that restitution be paid by the offender. However, when it comes to harms that the state commits, accountability is exceptionally rare. This is a form of denying those who are wronged the right to repair. Essentially, inspired by 400 years of anti-Black sentiments and denial of humanity, we live in a society where real progress toward equality for African Americans is treated as too much to ask. The federal government has and continues to engage in restitution initiatives and pay compensation to so many others, but again, not to African Americans. Some relatively recent examples discussed in Chapter 15 include payments to: Japanese Americans incarcerated during World War II; families who lost loved ones during the September 11, 2001 terrorist attacks (47 of whom were from California); the victims of the Boston Marathon bombings; Americans taken hostage in Iran (\$4.4 million per person for the 444 days they were held hostage). Again the question that should be asked is not “why reparations for African Americans,” but rather after all this time, “why have we not already initiated a reparations process for African Americans.”

⁴⁶ Darity and Mullen, *supra*, at pp. 248.

⁴⁷ Darity and Mullen, *supra*, at pp. 249.

Morality also compels California to make reparations. Every act of injustice necessitates the duty of atonement. American society, including California society, rests upon a financial foundation of centuries of the stolen labor of enslaved Africans, and the nation and state, especially whites, continue to benefit from the stolen lives and labor of millions of African Americans. The bedrock document of American government and society – the federal Constitution – embraced slavery. The deprivation of freedom and extraction of free labor from enslaved persons, and the countless other atrocities committed upon African Americans since 1619, have not been repaired; California has never atoned for its role in the horror of slavery and its progeny.

Enslavement and its enduring effects are a national responsibility. Why should California, rather than the Federal Government, engage in reparations instead of waiting for the Federal Government to act?

The debt that is owed to African Americans does belong to all of the United States, including California. Although the federal government and other states have thus far forsaken this debt and failed to take any meaningful steps to redress it, that does not give California a free pass, particularly for wrongs committed by California. On the contrary, when others fail to act, it is even more important for those committed to the American ideals of liberty and justice for all to fulfill their moral duty. Governments can, and often do, step in to acknowledge grievous wrongs and help alleviate the pain of those who have suffered, even where they have not directly caused all of the harm suffered. The federal government, for example, undertook reparatory efforts following the terrorist attacks of 9/11, the mass shooting of children at Sandy Hook Elementary School, and the Iran hostage crisis—all despite not being the party directly responsible. California has this same power to provide repair for African Americans in our state. In the face of federal inaction, and particularly with respect to historic and modern-day harms against African Americans perpetrated by California, an even stronger moral imperative is needed to acknowledge and redress the injustice and injury experienced by African American Californians.

California stepping into the breach no less diminishes the responsibility of the federal government. The harms meted out against African Americans resulted from collusion that was both local and national. While California has a clear responsibility to make reparations as detailed in this report, the Task Force strongly believes that the federal government has a duty to engage in a national reparations effort. Aside from the need for a uniform and equal reparations program across the country, federal reparations could also be more far reaching due to the resources of the federal government. For example, the combined budgets of all state and local governments in the country amount to less than \$5 trillion, while the federal government annually spends about \$6 trillion.⁴⁸

The Task Force’s recommendations would benefit California Descendants, even if their ancestors lived and/or were enslaved in other states. Why should California be responsible for reparations for people who migrated from other states?

First, through enactment and enforcement of the Fugitive Slave Act, California was responsible for the re-enslavement of and forced relocation of African Americans to other states. Thus,

⁴⁸ <https://fiscaldata.treasury.gov/americas-finance-guide/federal-spending/>.

California bears complicity in and responsibility for many Californian Descendants whose ancestors were enslaved in other states, as California forced many of those ancestors back into enslavement in those other states.

Second, while reparations are rooted first and foremost in enslavement, California, like other states, sanctioned racial terror and discrimination following emancipation, and used its legal and authoritative framework to ensure that the badges and incidents of enslavement persisted without remedy, profiting in the process. Consequently, even if Californian Descendants had ancestors who were enslaved in other states, when those Descendants or their ancestors became Californians, they experienced the continued badges and incidents of slavery and lingering discrimination that California perpetuated, as documented throughout Chapters 1-13 of this report.

If California is taking responsibility for atrocities that took place outside of California and providing reparations for those whose families lived outside of California, why not also provide reparations for those whose ancestors suffered the same atrocities, but outside of the United States?

A case can be made that the United States should pay reparations to descendants of persons who were enslaved in other locations that were part of the Atlantic slave trade system, also known as the “Triangle Trade,” as well as to those who died during the brutal forced passage to the Americas during this period. The Task Force strongly urges any government that benefitted from this historical blight on humanity to make reparations for the same types of atrocities detailed in this report.

However, this Task Force was charged with making a recommendation to the California Legislature regarding a reparations program operated by the State of California. To that end, the Task Force voted to limit eligibility to Californians who are able to trace their lineage to being an African American Descendant of a chattel enslaved person or a Descendant of a free African American living in the United States prior to the end of the 19th Century. This decision reflects AB 3121’s direction to the Task Force and the Task Force’s judgment that California’s moral obligation extends first and foremost to those within the community of eligibility. This focus on Descendants of African American enslaved persons or free persons in the United States is therefore warranted because California played a more direct role in the commission of atrocities and harms to the ancestors of these community members than it did to others who were similarly harmed by enslavement beyond the borders of the United States.

The Task Force’s Final Report documents how African Americans as a group have been subjected to inter-generational harm up through the present. Why limit monetary reparations only for those within the eligible class?

The UN Principles on Reparation include five forms of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁴⁹ Reserving monetary reparations (including monetary-equivalent reparations such as free tuition or loan forgiveness), or

⁴⁹ See Chapter 14 for more detail.

restitution, for the eligible class is appropriate, as restitution's central purpose in the reparations context is to endeavor to restore victims to the status they would have had in the absence of the atrocities suffered. The harm here can never be undone, but to the extent financial reparations can seek to restore, the decision was made to trace reparations payments back to those who suffered the original harm—to the lives taken, the labor stolen, the families destroyed, the bodies and souls brutalized and dehumanized. The Task Force has accordingly recommended this harm-based approach.

But to reserve monetary reparations to those who are descended from enslaved person does not require that we ignore the ongoing harm to the larger African American community that can be addressed by changes in policy. As set forth in Chapters 1-13 of this report, African Americans in California and across the United States have and continue to experience myriad harms and atrocities that are the direct result of a system in place since the time of chattel slavery, including Jim Crow segregation and government discrimination designed to suppress, exploit, exclude, and subjugate African Americans on the basis of race. As the international law framework for reparations and AB 3121 both recognize, the community of persons who are considered “victims” of this system is broad and inclusive of those who continue to suffer the unremitting legacy of enslavement.⁵⁰ Through the changes to laws and policies recommended in Chapters 18-30 of this report, the Task Force aims to address the harms that persist and extend to all African American Californians. These legislative reforms are no less essential to reparations, but take a different form of satisfaction, rehabilitation, and guarantee of non-repetition beyond monetary payments or restitution.

People of color of all different ancestries have suffered numerous harms throughout California's and the United States' history. Why should African Americans and even more specifically, the eligible class, get reparations while others do not?

AB 3121 created the Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States. As conveyed by the Task Force's name, the Legislature's specific focus and charge to the Task Force was to “[s]tudy and develop reparation proposals for African Americans” to address the lingering harms flowing from “[t]he institution of slavery” as

⁵⁰ As discussed in Part __, Chapter __, The UN Principles on Reparation defines victims as “persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.” United Nations General Assembly, [*Adopted Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*](#), (March 21, 2006) (UN Principles on Reparation) at p. 5. The International Commission of Jurists has explained that the term “victim” was intended to be broad under the United Nations Principles on Reparation – a “victim is not only the person who was the direct target of the violation, but any person affected by it directly or indirectly.” International Commission of Jurists, [*The Right to a Remedy and Reparation for Gross Human Rights Violations: A Practitioners' Guide*](#) (Revised Edition, 2018), p. 35 [confirm pin]. For its part, AB 3121 conveys the Legislature's recognition that, while descendants of enslaved persons are due special consideration, the larger African American community has suffered and continues to suffer the weight of anti-Black bias and racism. [cite 8301(a)(4)-(6), (b)(1)(C)].

well as from “de jure and de facto discrimination against freed slaves and their descendants from the end of the Civil War to the present, including economic, political, educational, and social discrimination.”⁵¹ This is the mandate assigned to, and carried out by, the Task Force.

While other people of color have suffered harms, the experience of 246 years of enslavement, 90 years of Jim Crow and racial terror, and decades more of systematic subjugation and exclusion is unique to African Americans and without near equivalence, resulting in persistent lingering consequences today.

Making reparations to African Americans for the incomparable atrocities suffered by their ancestors and for harms that have persisted need not be to the exclusion of reparations for other groups that have endured harms that also warrant reparations under international law. Our history to date, however, is that African Americans have repeatedly, and cruelly, been promised and then denied their humanity and reparations. Promises have been made, beginning with “40 acres and a mule,”⁵² running through “Separate educational facilities are inherently unequal”⁵³ and even to the present day, and all have been broken. As the examples discussed in Chapter 15 demonstrate, the United States and others have provided reparations—however imperfectly—for a host of sins, and yet African Americans continue to be left behind, having received no reparations from the federal government, nor from any state, for the extensive pattern of government-sanctioned race-based discrimination and subjugation they have suffered. Once again, rather than asking why this group should receive reparations, the question instead ought to be why African Americans should be singled out to not receive what was promised to them, why the visceral reaction that they should not be compensated for atrocities and crimes against them sanctioned by the state, and what they are more than due.

Moreover, reparations need not be a zero-sum game. Just as there have been numerous reparatory initiatives prior to this report, the cases for redress for others can and should be made. The Task Force hopes this report—and the implementation of its recommendations by the Legislature—can serve as a model for future efforts. But, for example, just as the 1988 Japanese American mass incarceration reparations commission was not asked to account for reparations for others wrongly incarcerated, so, too, does this Task Force’s focus needs to remain on the task at hand.

Other groups of people endured specific harms in California, such as railroad workers and miners from China and Indigenous individuals subjugated through the Mission system. Why prioritize reparations in California for African Americans?

To prioritize reparations for African American Californians is not to prioritize African American Californians “over” others—it is to begin a long overdue process of acknowledging, atoning for, and seeking to repair an historical wrong that has persisted for over 400 years. And California has taken steps to acknowledge and atone for other state sins. Some of these efforts are outlined in Chapter 15. Undoubtedly, there is more work to be done and more harms to others that

⁵¹ Gov. Code § 8301(b)(1)(B)-(C).

⁵² CITE

⁵³ *Brown v Bd. of Education*, 397 U.S. at 495

warrant repair, and the Task Force trusts that this report can provide a model for other efforts to examine and redress the harms others have suffered in California and in the United States.

Enacting reparations in California could potentially cost California residents a lot of money. But neither I nor my family ever enslaved anyone. So why should we have to take responsibility for reparations for Black people?

As Americans and Californians, we have routinely taken collective responsibility or paid for a debt that we personally may not have caused. This is part of living within an organized society. Even though individuals today may not be directly responsible, it is important to recognize that the profits and benefit to the country that came out of the enslavement system have been shared by far more Americans and Californians than just those who enslaved people. As detailed in this report, the institution of slavery, the trade patterns in which it factored, and the industries which it supported substantially fueled the economic development of our entire country, enabling the United States to gain independence and establishing a foundation that allowed it to develop into the global leader it is today. The triangle trade, for example, paid for America's best universities, which went on to educate generations of American lawmakers, inventors, and business people. They in turn went on to strengthen and expand the wealth of the country we live in today. Enslaved people built some of the most important edifices in our country, including some of the very symbols of our nation. Enslavement is woven into the very fabric of American history and society. There is no America today without the institution of enslavement. Every American today, including every Californian, has benefited from our country's "original sin." We thus need not assign fault or blame to today's citizenry to understand that there is a debt owed by our nation and our state as a whole.

Functionally, as a society that has a history of actions in the interest of the greater good, we all own America's debt. The public holds over \$30 trillion of the national debt. Foreign governments hold a large portion of our public debt, while the rest is owned by banks and investors, the Federal Reserve, state and local governments, mutual funds, pension funds, insurance companies, and holders of savings bonds. So how much does each citizen pay towards the \$28.43 trillion of federal debt? If you take the national population estimate in 2021 of 332.8 million people,⁵⁴ \$28.43 trillion would be equivalent to more than \$86,000 for every individual in the U.S.⁵⁵ It is more common than not for the government to run an annual deficit,⁵⁶ regardless of which political party is in charge. In fact, the federal government has run a deficit for 77 of the past 90 years and first carried debt after the Revolutionary War in 1790. The most significant increase to the national debt was the cost of World War II, which added roughly \$186 billion to the national debt between 1942 and 1945. Congress added \$236 billion to the national debt during FDR's terms, representing an increase of 1,048%. More recently, during both the economic crisis of 2008 and the COVID-19 pandemic, the federal government took on not billions, but *trillions* of dollars of additional debt in order to ensure the collective good. Some

⁵⁴ United States Census Bureau (cite)

⁵⁵ U.S. <https://datalab.usaspending.gov>; <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/>

⁵⁶ <https://www.forbes.com/sites/rmiller/2021/06/24/government-deficits-the-debt-money-and-inflation/?sh=2b1886422340>

people benefitted from these funds more directly than others, but the burden was shouldered collectively and the impacts accrued to the collective good. So it should be with reparations for African Americans.