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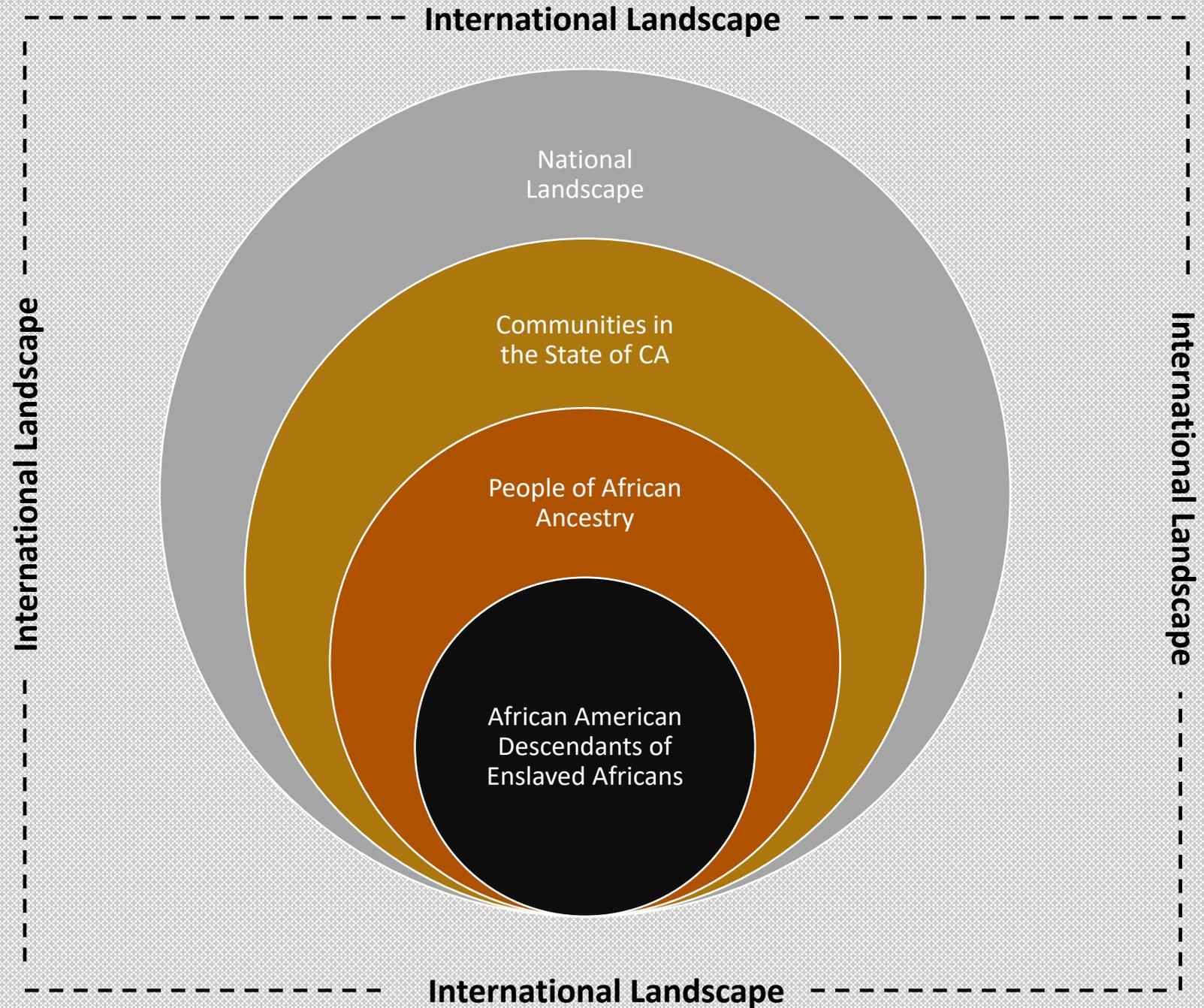
AGENDA ITEM 4-  
FURTHER CONSIDERATION OF  
COMMUNITY ENGAGEMENT PLAN

# CA Reparations Taskforce

Community Engagement Strategy  
Update

September 23, 2021

# The Socio-Ecological Landscape



# Community Engagement Strategy

## Listening Sessions

Sample foci

### CA Regions



### Systems Involved



### Social Safetynet



### Racial & other Affinity/Ally Groups



## Listening Sessions

Sample foci

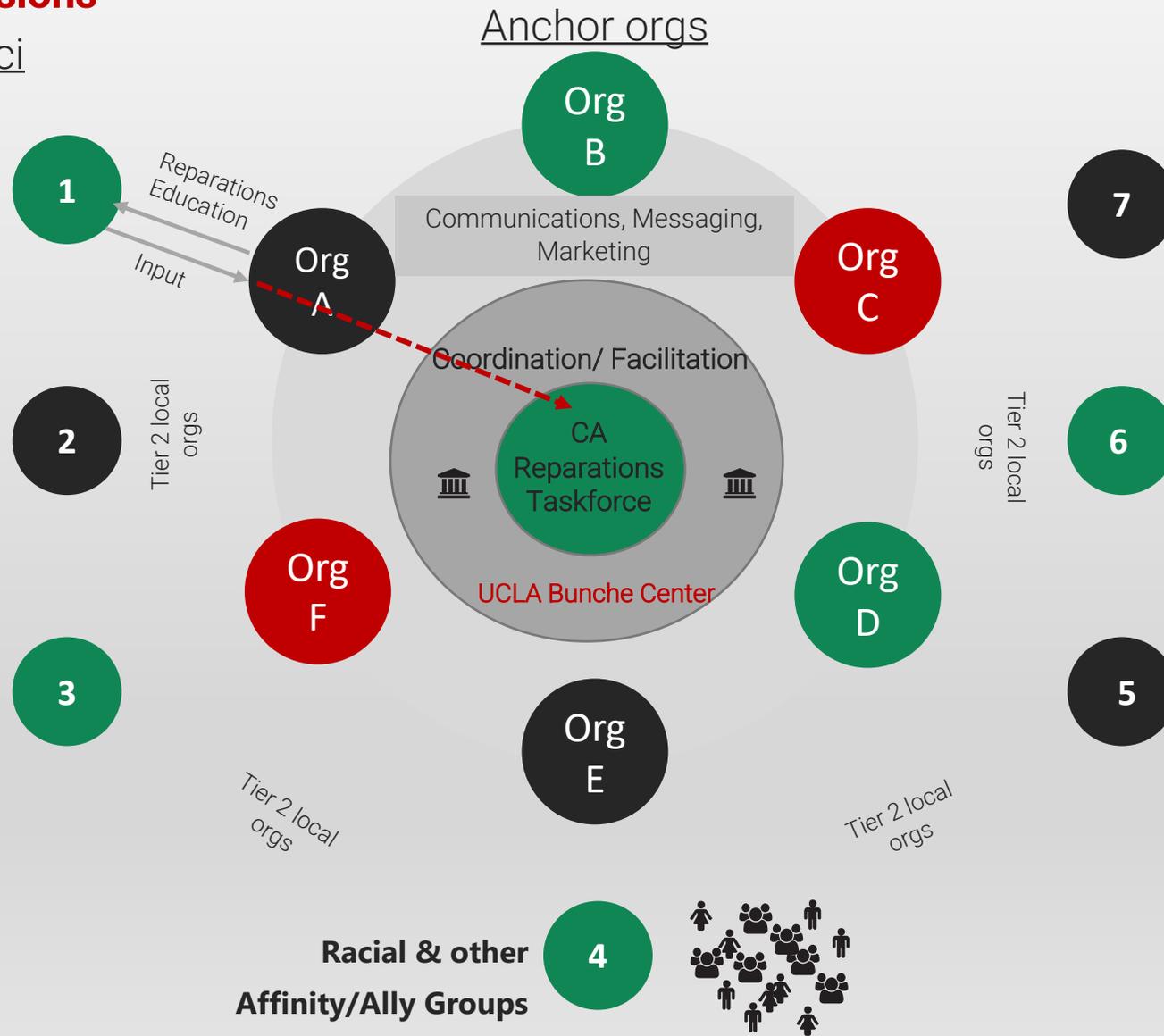
### Black Farmers

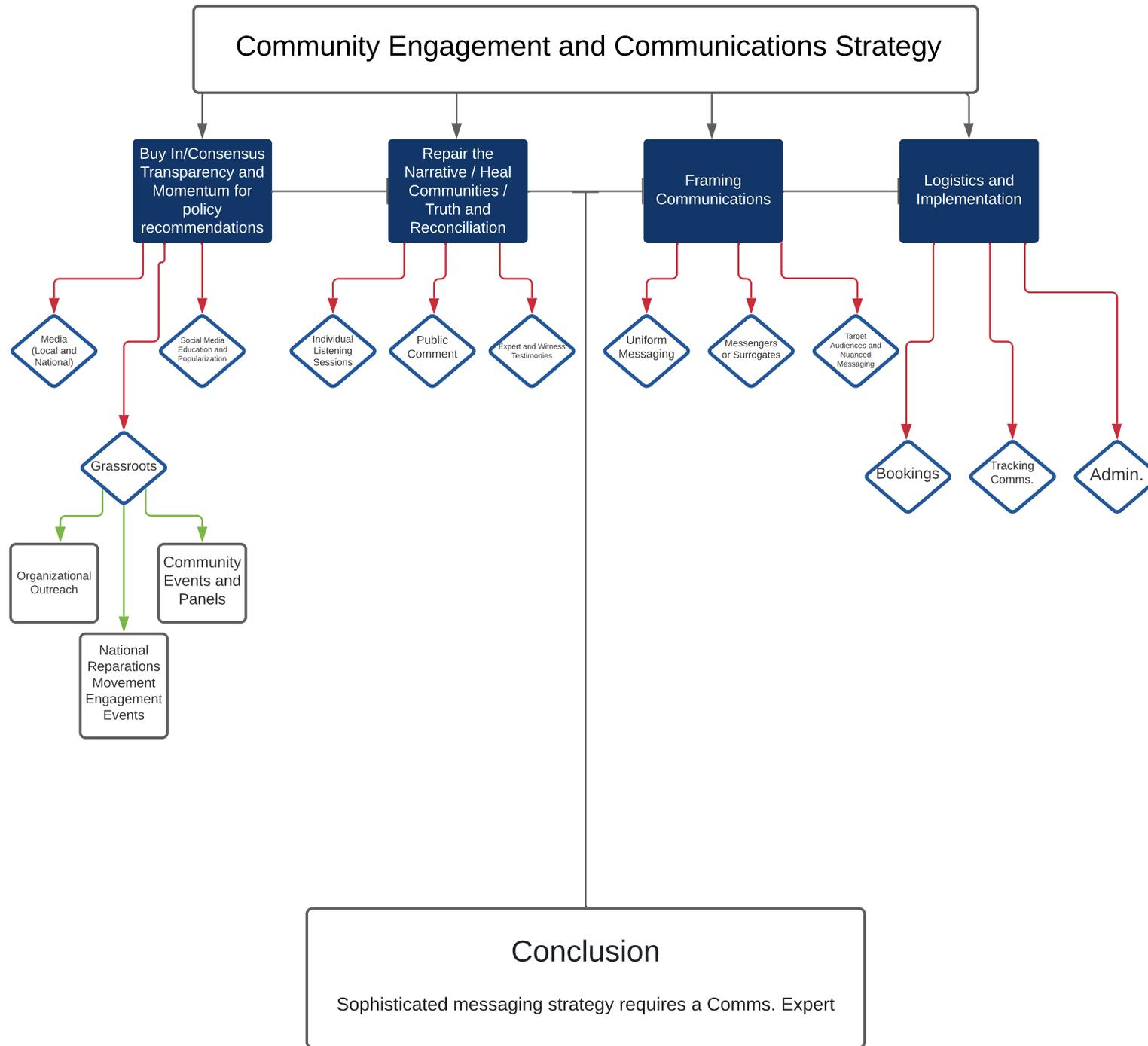


### CA county/city reparations efforts

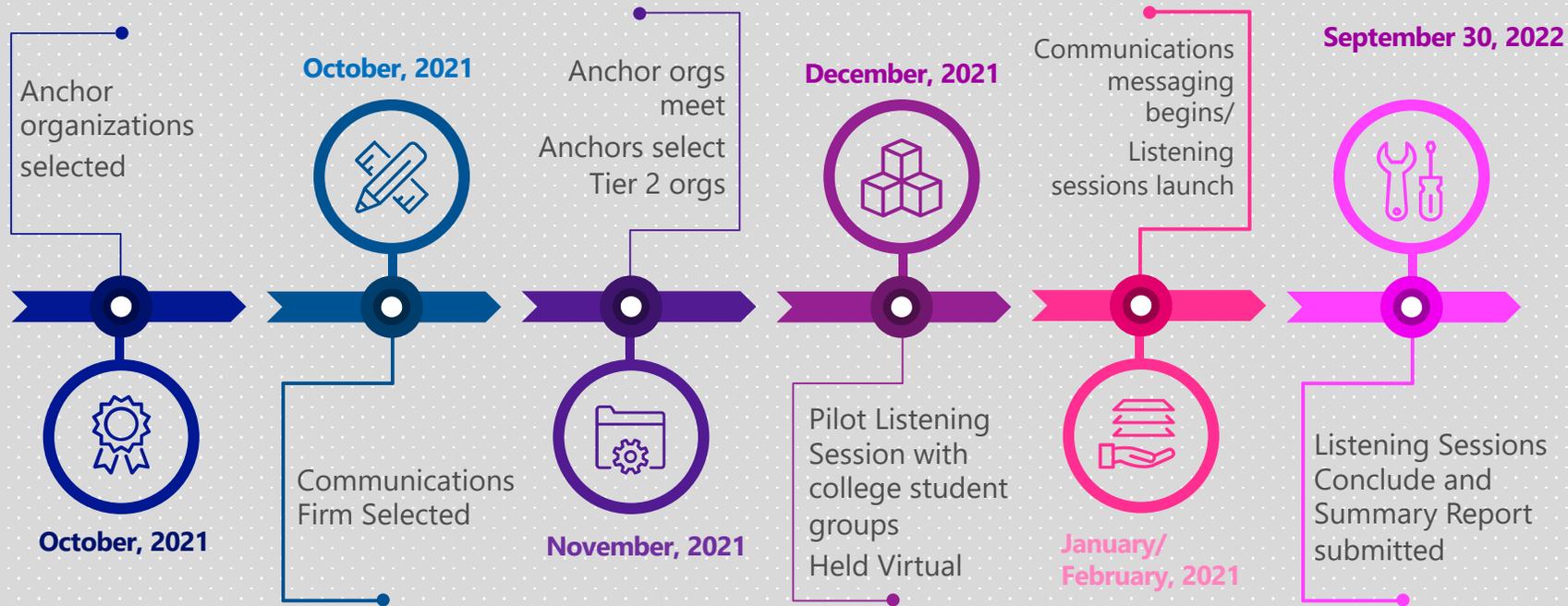


### Economics/Employment/Housing





# Community Engagement TimeLine



# In Summary

- Timeframe and Number of Listening Sessions
- The Role of the Ralph Bunche Center
  - Selection and Launch of Communications Firm and Strategy
  - The Anchor Organizations; Tier 2 Local Community Based Organizations
  - Listening Session Logistics
    - Who, what, when, where
  - Listening Session Testimony Documentation, Analysis, & Themes
  - Listening Session Surveys

AGENDA ITEMS 5, 7, 14:

AVAILABLE WITNESS STATEMENTS  
(NOT ALL WITNESSES HAVE BEEN ABLE  
TO SUBMIT WRITTEN STATEMENTS)

**Statement on International Frameworks for Redressing Past Atrocities**

**Draft of 9/21/21**

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## **Part I.**

### **Introduction**

The poet Robert Burns famously wrote during the Enlightenment in 1784: "Man's inhumanity to man makes countless thousands mourn." Burns was looking back over centuries of human injustices as the basis for his observation. But even now, long after the Enlightenment, we have not been able to reverse our proclivity to commit human injustices. Perhaps the only thing that has significantly changed through the centuries is the human capacity to offer some form of redress for past atrocities.

This capacity for redress did not, however, manifest itself until after the Second World War. In 1952, the global community was still staggering with intense fear, shock, dismay, and disgust from its discovery of the Holocaust at the end of the global conflict. Konrad Hermann Joseph Adenauer, the first chancellor of the Federal Republic of Germany, declared to the world: "In our name, unspeakable crimes have been committed and demand compensation and restitution, both moral and material, for the persons and properties of the Jews who have been so seriously harmed."<sup>1</sup> Significantly, Adenauer was speaking not just for himself personally, but on behalf of the German state—the people, laws, institutions, and culture of Germany.<sup>2</sup> A full length statute of Adenauer stands beside that of Eisenhower, Churchill, and De Gaulle in the Nixon Presidential Library as Adenauer was one of the big four world leaders who shaped international relations in the West in the decades after the Second World War.

<sup>1</sup> This quotation is taken from a report by the United States Department of Justice Foreign Claims Settlement Commission, *German Compensation for National Socialist Crimes*, in *WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE* (Roy L. Brooks ed., 1999), at 61 [hereinafter *WHEN SORRY ISN'T ENOUGH*].

<sup>2</sup> *See id.*

The critical point to see here is that Adenauer's proclamation set the tone or attitude about international redress that still resonates with scholars, public officials, and activists today. This is a spirit—a post-Holocaust spirit—of heighten morality, egalitarianism, identity, and restorative justice. *Identity* is the key word. It means that the perpetrator of the atrocity has come to see its victims as its human equal for the very first time. How is it that a German officer (a human being) can make another human stand in the snow, cold and freezing, for half the night and through the entire next day? How is it that Japanese soldiers can throw newborn Chinese babies in the air and catch them at the end of their bayonets or slam the babies' heads against a brick wall? How is it that freedom-loving Americans can deny freedom to blacks for 2 1/4 centuries or intern patriotic Japanese Americans? It is because the perpetrator sees its victims as sub-human, not the perpetrator's equal. Adenauer's post-Holocaust vision greatly informs the International Redress Movement that came into existence in the years after the post-World War II Era.

## **Part II.**

### **International Redress Movement (IRM)**

Two broad strategies of redress give shape to IRM: criminal redress and civil redress. Criminal redress seeks, in the main, retributive justice in the form of state prosecution of crimes under both domestic and international law. Individual perpetrators are fined, imprisoned, or executed.<sup>3</sup> Civil redress, in contrast, works to the material benefit of the victims. It is an avenue

<sup>3</sup> Explaining international criminal law, Professors Beth Van Schaack and Ronald Slye, write:

International criminal law imposes criminal responsibility on individuals for certain violations of public international law. The legal norms within international criminal law share several characteristics. First, offenses against this body of law are criminalized at the international level, although they may also find expression in domestic penal codes. Second, these violations give rise to individual *criminal* liability. At the same time, they may also generate state and individual *civil* (tort) responsibility such that violations may generate parallel proceedings against different classes of defendant/respondent under different theories of liability. In this way, international criminal law encompasses parts of both international humanitarian law (also called

for private redress.<sup>4</sup> Civil redress is the centerpiece of the IRM, and, therefore, the focal point of this statement.

Keeping in mind that most past atrocities were legal at the time of their occurrence, civil redress can be effectuated in a variety of ways. The most common ways (referred to as the forms of redress) are *truth commissions*, *truth trials*, *apologies*, and *reparations*. These forms of redress can be implemented through the *tort model* or the *atonement model*.

### A. Truth Commissions and Truth Trials

Truth commissions and truth trials are relatively straightforward forms of civil redress models. Each seeks to get at the truth of the atrocity; clarify the historical record. South Africa and Sierra Leone employed truth commissions in their redress regimes. Argentina used both truth commissions and truth trials.

the “law of war”) and international human rights law, but transcends both. Third, international criminal law violations are prosecuted before international penal tribunals, such as the *ad hoc* war crimes tribunals created by the United Nations and the permanent International Criminal Court. At the same time, these violations are increasingly prosecuted before domestic courts under various jurisdictional principles, many of which accord domestic courts an expansive extraterritorial reach. And, fourth, international criminal law violations may trigger state obligations to prosecute offenders under treaty law and, some would argue, customary international law. Much of modern international criminal law is found in treaties and the burgeoning jurisprudence of the modern war crimes tribunals. The field also borrows heavily from the basic principles of domestic criminal law, at times sampling from, blending, and reconciling the civil law and common law penal traditions.

BETH VAN SCHAACK AND RONALD C. SLYE, *INTERNATIONAL CRIMINAL LAW AND ITS ENFORCEMENT: CASES AND MATERIALS 1-2* (2007) [hereinafter *INTERNATIONAL CRIMINAL LAW*]. The Nuremberg and Tokyo war crime trials at the end of the Second World War may be the best known, certainly the prototypical, implementations of criminal redress. Since then, a number of international tribunals have been established to prosecute the perpetrators of past atrocities. The International Court of Justice (ICJ) has jurisdiction over all matters specifically provided for in conventions, such as the Convention on the Prevention and Punishment of Crimes of Genocide, or customary international law. Members of the United Nations are de facto signatories to the ICJ Statute and, hence, may refer cases to the ICJ. See, e.g., Convention on the Prevention and Punishment of the Crime of Genocide, G.A. Res. 260 (III), U.N. GAOR, 3rd Sess., U.N. Doc. A/810, at 174 (Dec. 9, 1948); The Statute of the International Court of Justice, U.N. Charter art. 110, para. 3. The Statute can also be found at <http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>. See Lucas Bastin, *International law and the International Court of Justice decision in Jurisdictional Immunities of the State*, 13 *Melb. U. Int'l. L.J.* 774 (2012).

<sup>4</sup> See *INTERNATIONAL CRIMINAL LAW supra* note 3 at 1. See, e.g., WILLIAM DARITY JR. AND A. KIRSTEN MULLEN, *FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY* (2020); ALFRED L. BROPHY, *REPARATIONS PRO & CON* (2006); *TAKING WRONGS SERIOUSLY: APOLOGIES AND RECONCILIATION* (Elazar Barkan & Alexander Karn eds., 2006).

In many ways, the South African Truth and Reconciliation Commission (TRC) set the standard for the use of the truth commission. Two centuries of colonization culminated in the formation of the racially exclusive Union of South Africa in 1948.<sup>5</sup> The National Party (NP) came to power in that year.<sup>6</sup> Between 1948 and 1960, the NP enacted legislation (Apartheid) that gave current meaning to a tradition of racial segregation and discrimination.<sup>7</sup> In 1994, after decades of internal protest and international condemnation (including economic boycotts and exclusion from Olympic participation), the people of South Africa ended Apartheid.<sup>8</sup> They elected Nelson Mandela president in their first open election.<sup>9</sup> Mandela was not only black, but having spent 27 years incarcerated as a political prisoner, he had become the symbol of resistance to Apartheid.<sup>10</sup> He became head of a once-banned political party, the African National Congress (ANC).<sup>11</sup>

Nelson Mandela's election marked the beginning of a period of transition in South Africa. The government, but not all the country's citizens, expressed a deep desire to apologize for Apartheid and to move from a regime of racial oppression and exclusion to one of racial reconciliation and democratic process.<sup>12</sup> Racial reconciliation—or what is simply called “reconciliation” by South Africans—became a political imperative that drove the redress movement in South Africa.<sup>13</sup> Once the redress movement transitioned from the outside to the

<sup>5</sup> *African National Congress Statement to the Truth and Reconciliation Commission*, in *WHEN SORRY ISN'T ENOUGH*, *supra* note 1, at 451.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See Brooks, *What Price Reconciliation?*, in *id.*, at 445.

<sup>13</sup> Reconciliation has produced a unique form of redress: amnesty for the individual oppressors. See *infra*, text accompanying notes 17-19.

inside (from the streets to the government), the government-created Truth and Reconciliation Commission took over.<sup>14</sup>

The TRC had authority to conduct hearings for the purpose of uncovering the truth about Apartheid—who did what to whom and what were the individual and institutional consequences? To encourage individual perpetrators to come forward and speak the truth, the TRC was given a controversial additional power—the power to grant amnesty from criminal and civil prosecution for truth-tellers.<sup>15</sup> Headed by the world-renowned Nobel Laureate and Archbishop of South Africa, Desmond Tutu,<sup>16</sup> the TRC uncovered untold acts of violence and torture that proved useful for two purposes. First, it set the historical record straight. It provided single, authoritative view or understanding about what happened. Second, it established a factual predicate—a rational basis—for the creation of meaningful reparations.<sup>17</sup>

The TRC made the difficult and controversial judgment that it was better to pursue restorative and redistributive justice through a regime of civil redress rather than retributive justice in the form of criminal prosecutions.<sup>18</sup> This determination was manifested in the decision to grant amnesty to individual perpetrators who came before the commission and told the truth about their participation. These individuals escaped both civil and criminal prosecution in response to their honesty. The success of TRC's calculation is still very much unsettled; for, while there has been a meaningful redistribution of political power in South Africa (albeit too

<sup>14</sup> Brooks, *What Price Reconciliation?*, in *WHEN SORRY ISN'T ENOUGH*, *supra* note 1, at 444.

<sup>15</sup> Alexander Boraine, *Alternatives and Adjuncts to Criminal Prosecution* in *WHEN SORRY ISN'T ENOUGH*, *supra* note 1, at 472-74.

<sup>16</sup> See DESMOND TUTU, *NO FUTURE WITHOUT FORGIVENESS* (1999).

<sup>17</sup> Alexander Boraine, *Alternatives and Adjuncts to Criminal Prosecution* in *WHEN SORRY ISN'T ENOUGH*, *supra* note 1, at 470.

<sup>18</sup> Wilhelm Verwoerd, *Justice after Apartheid? Reflections on the South African TRC*, in *WHEN SORRY ISN'T ENOUGH*, *supra* note 1, at 479.

often corrupt), there has not been a significant redistribution of educational and economic opportunities.<sup>19</sup>

Argentina used both a truth commission (the Argentine National Commission on the Disappeared) and truth trials in an attempt to clarify the facts surrounding its atrocity, the so-called “Dirty War” (1976-1983).<sup>20</sup> In this atrocity, Argentina’s military government killed, tortured, and arrested thousands of suspected leftist dissidents.<sup>21</sup> Many innocent people, called “the disappeared,” simply disappeared, never to be found.<sup>22</sup> Creating a historical record aided in the prosecution of war criminals and in the commission’s recommendation of a regime of reparations. These reparations were in the form of economic assistance, educational grants, and employment to the family and relatives of the disappeared.<sup>23</sup> In addition, the commission proposed new laws declaring, *inter alia*, forced abduction a crime against humanity.<sup>24</sup>

Argentina’s truth commission failed, however, to respond to a crucial need of the victims—finding out what happened to the disappeared.<sup>25</sup> In response to this deficiency, groups

<sup>19</sup> See, e.g., *South Africa's 'toxic' race relations*, BBC, December 18, 2018, <https://www.bbc.com/news/world-africa-46071479>.

<sup>20</sup> See, ARGENTINA COMISION NACIONAL SOBRE LA DESAPARICION DE PERSONAS, NUNCA MÁS: THE REPORT OF THE ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED; WITH AN INTRODUCTION BY RONALD DWORKIN 446 (1986).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See COMISIÓN NACIONAL SOBRE LA DESAPARICIÓN DE PERSONAS [COMMISSION ON THE DISAPPEARED], NUNCA MÁS [NEVER AGAIN], translated in: NUNCA MÁS (NEVER AGAIN): THE REPORT OF THE ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED 446 (1986); Daniel W. Swartz, *Rectifying Twenty-Five Years of Material Breach: Argentina and the Legacy of the “Dirty War” in International Law*, 18 EMORY INT’L REV. 317, 333-37 (2004). These are victim-directed (compensatory) reparations in that they are directed toward the victim or the victim’s family. For a more detailed discussion of this type of reparation, see *infra* Part IIC.

<sup>24</sup> Swartz, *Rectifying Twenty-Five Years of Material Breach*, *supra* note 23, at 351. These are community-directed (rehabilitative) reparations in that they are directed toward the victims’ community. See *infra*, Part IIC. While the compensatory reparations were largely implemented years after the commission’s final report, the rehabilitative reparations were not entirely implemented, although the Argentinean Constitution was amended in 1994 to provide that international law, including crimes against humanity, and treaty obligations trump domestic law. See, Swartz, *Rectifying Twenty-Five Years of Material Breach*, *supra* note 23, at 337.

<sup>25</sup> See *id.* at 333-37.

like the *Madres de Plaza de Mayo* called for the judiciary to initiate truth trials, which it did.<sup>26</sup> In these trials, perpetrators already under the protection of the amnesty laws were forced into court to testify about what they knew about the disappeared.<sup>27</sup> Unlike ordinary criminal trials, Argentina's truth trials were expressly limited to investigation and documentation. There was no possibility either for prosecution or punishment. The trials were based on the right (both of the victims' relatives and of society as a whole) to know the truth, and the right of the relatives to bury and mourn their dead. Argentina's truth trials' record of success is rather spotty. This is because the source of law is rather uncertain and the defendants in these cases (who were mostly government officials) refused to abide by court orders to up documents detailing incidents that took place twenty or more years ago. The appellate courts have generally sided with the defendants.<sup>28</sup>

## **B. Apologies**

Apologies for past atrocities have come from all corners of the world—Britain's Queen Elizabeth apologizing to the Maori people; Australia to the stolen Aboriginal children; the Canadian government to the Canadian-Ukrainians; President Clinton to many groups, including native Hawaiians and African American survivors of the Tuskegee, Alabama syphilis experiment; South Africa's former President F.W. DeKlerk to victims of Apartheid; and Polish, French and

<sup>26</sup> INT'L CTR. FOR TRANSITIONAL JUSTICE, ACCOUNTABILITY IN ARGENTINA: 20 YEARS LATER, TRANSITIONAL JUSTICE MAINTAINS MOMENTUM 4 (2005), available at <http://ictj.org/sites/default/files/ICTJ-Argentina-Accountability-Case-2005-English.pdf>.

<sup>27</sup> *Id.* The writ of *coram nobis* (the decision had been made in error) is similar to truth trials in the United States. The statutory authority for the writ is in the All-Writs Act in the Judicial Code or 28 U. S. C. § 1651. Unlike the *habeas corpus* petition, the defendant filing the *coram nobis* does not have to be in-custody and there is no statute of limitations on filing the petition. Basically the writ of *coram nobis* seeks to vacate a federal (as opposed to a state) criminal conviction and must be directed to the sentencing court. It attacks the sentence. The Japanese American Redress Movement made use of this writ not only to get at the truth surrounding the internment of Japanese-Americans during World War II, but also to set aside previous convictions of victims arrested and tried for crimes growing out of their internment. See, Sandra Taylor, *The Internment of Americans of Japanese Ancestry*, in WHEN SORRY ISN'T ENOUGH, *supra* note 1, at 168.

<sup>28</sup> See, e.g., The "Truth Trials," HUMAN RIGHTS WATCH, <https://www.hrw.org/reports/2001/argentina/argen1201-04.htm>.

Czech notables for human injustices perpetrated during Second World War.<sup>29</sup> These apologies are more complex than “contrition chic” or “the canonization of sentimentality.”<sup>30</sup> They are “a matrix of guilt and mourning, atonement and national revival.”<sup>31</sup> To that extent, an apology “raises the moral threshold of a society.”<sup>32</sup>

An apology must, however, be genuine. It must, in other words, confess the deed, admit the deed was an injustice, repent, and ask for forgiveness.<sup>33</sup> In 2009 both Houses of Congress passed a Concurrent Resolution, S. Con. Res. 26, apologizing for slavery and Jim Crow.<sup>34</sup> While this apology confesses the deeds and admits that they were atrocities, it does not show remorse or ask for forgiveness. Moreover, Congress explicitly refused to grant the victims any reparations. That is an indication of the government’s lack of repentance.<sup>35</sup> An apology by itself does not carry enough heft to elevate the level of humanity in the aftermath of an atrocity, in my opinion. Simply saying “I’m sorry” is not enough. Hence, the need for reparations.

### **C. Reparations**

There are two basic forms of reparations: victim-directed (*compensatory*) reparations and community-directed (*rehabilitative*) reparations.<sup>36</sup> The former “are directed toward the individual victim or the victim’s family.”<sup>37</sup> They are compensatory, but only in a symbolic way, as “nothing can undo the past or truly return the victim to the *status quo ante*.”<sup>38</sup> South Africa

<sup>29</sup> Brooks, *The Age of Apology*, in WHEN SORRY ISN’T ENOUGH, *supra* note 1, at 3.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> See ROY L. BROOKS, ATONEMENT AND FORGIVENESS: A NEW MODEL FOR BLACK REPARATIONS 144 (2004) [hereinafter BROOKS, ATONEMENT AND FORGIVENESS].

<sup>34</sup> S. Con. Res. 26 (111th): “A concurrent resolution apologizing for the enslavement and racial segregation of African Americans,” Govtrack, June 18, 2009, <https://www.govtrack.us/congress/bills/111/sconres26/text> (accessed February 3, 2020).

<sup>35</sup> *See id.*

<sup>36</sup> See BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 155-56.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

paid 30,000 rand (which is about \$3,890 in 1999 dollars) each to about 19,000 people identified as victims of gross human rights violations. These compensatory reparations were designed to “acknowledge the suffering caused by the gross violations of human rights.”<sup>39</sup> Rather than attempting to compensate the victim or the victim’s family, community-directed reparations—rehabilitative reparations—seek to repair the damage the atrocity has visited upon a large portion of the victim’s group or community, whether or not a particular member was a direct victim of the atrocity. These are community-building, asset-building reparations. They can include access to services and quality education, institutional reform, scholarships, and museums or monuments commemorating the victims.<sup>40</sup>

Compensatory and rehabilitative reparations can be divided into monetary and nonmonetary (or in-kind) reparations. When cash (a direct or conditional payment) is given to the victims or their descendants on an individual basis, that constitutes a *monetary victim-directed (compensatory) reparation*.<sup>41</sup> When such cash is paid to the victims’ community based upon their status as members of the victims’ group, it is a *monetary community-directed (rehabilitative) reparation*.<sup>42</sup> When medical or psychological assistance, job training or job placement, special educational programs (e.g., special admissions) and other types of in-kind services, programs or laws are provided to the victims or their descendants on an individual basis, that is a *nonmonetary victim-directed (compensatory) reparation*.<sup>43</sup> Monuments or other public recognitions that honor the victim personally also fall into this category.<sup>44</sup> When such non-cash redress is directed toward the victims’ community, it is a *nonmonetary community-*

<sup>39</sup> Eric K. Yamamoto and Susan K. Serrano, “Healy Racial Wounds? The Final Report of South Africa’s Truth and Reconciliation Commission,” in *WHEN SORRY ISN’T ENOUGH*, *supra* note 1, at 496.

<sup>40</sup> *See* BROOKS, *ATONEMENT AND FORGIVENESS*, *supra* note 33, at 155-56.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

*directed (rehabilitative) reparations.*<sup>45</sup> Museums or monuments honoring the victims' group fall into this category.<sup>46</sup>

In short, whether cash or non-cash, compensatory reparations proceed at the individual level and rehabilitative reparations proceed at the community or institutional level.

Reparations are limited only by the human imagination and capacity for justice. They must, however, be contextualized if they are to be effective. In other words, they must be responsive to the particulars of the atrocity, the country's unique culture, and, most importantly, the victims' wishes. Competing redress models—the tort model and the atonement model—help to contextualized reparations.

#### **D. Tort Model**<sup>47</sup>

The tort model is backward-looking, victim-focused, and compensatory (sometimes punitive). Its driving force is the belief that the victim or the victim's family should be compensated by the perpetrator for personal injury sustained as a result of the perpetrator's intentional acts of wrongdoing.<sup>48</sup> When rights have been ripped away, the victims deserve to be compensated. Redress is thus seen not as a moral imperative but as a legal or equitable claim. Consequently, the quotidian language of torts or restitution—causation, calculation of damages, statute of limitations—takes center stage.

Redress through the tort model can take the form of litigation or legislation. Seeking compensatory justice through litigation has not, however, been a successful strategy. Procedural hurdles (such as, the statute of limitations, sovereign immunity, and legally cognizable right of action) typically result in a dismissal of the lawsuit without any determination of the substantive

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *See generally id.* at Ch. 4.

<sup>48</sup> *See id.* at 139.

issues. This, indeed, has been the fate of the many lawsuits filed on behalf of African Americans seeking reparations for slavery from the United States.<sup>49</sup> Many of these procedural issues can, however, be resolve by legislative waivers.<sup>50</sup>

Aliens have not had much better luck suing under the Alien Torts Claims Act (also called the Alien Tort Statute, or ATS), which grants federal district courts “original jurisdiction of any civil action by an alien for a tort only committed in violation of the law of nations or a treaty of the United States.”<sup>51</sup> As more fully discussed in Chapter 4 of *Atonement and Forgiveness*, most of these cases, such as the Japanese and Nazi forced labor cases brought against foreign governments, have been dismissed on procedural grounds. So too have the Japanese American removal and internment cases. One successful litigation under the ATS was litigated against the Ferdinand Marcos, the late president turned dictator of the Philippines, 1965-1986. Numerous private lawsuits alleging human rights violations, including summary executions and disappearances, were filed against the deposed dictator in Hawaii and California after he fled his country to live in Hawaii. These lawsuits were eventually consolidated in the federal district court for Hawaii and certified therein as a class action. In February 1994, the district court entered a judgment in favor of the 10,059 plaintiffs, awarding \$1.2 billion in exemplary damages and \$766 million in compensatory damages to the plaintiffs.<sup>52</sup> One of my graduate students worked on this case in his

<sup>49</sup> *See id.* at 119-31.

<sup>50</sup> For example, Congress passed legislation that tolled the statute of limitations in a case that is often mistaken as a slave-redress case. *See, Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999); 182 F.R.D. 341 (D.D.C. 1998). *Pigford* is not a slave-redress case because, as I have written before, “Neither the complaint nor the court’s approval of the settlement was based on slavery or Jim Crow or an event that took place during slavery or Jim Crow. . . . *Slave-redress cases succeed because of their connection to the past, not in spite of that connection.*” *Id.* at 126=27 (emphasis in original).

<sup>51</sup> 28 U.S.C. § 1350.

<sup>52</sup> *In re Estate of Ferdinand Marcos, Human Rights Litigation*, 910 F. Supp. 1460, 1463-64 (D. C. Haw. 1995). On interlocutory appeal, the Ninth Circuit affirmed the trial court’s subject matter jurisdiction and award of \$1.2 billion in exemplary damages (the award of compensatory damages was made after this decision). The appellate court held that the district court had subject matter jurisdiction because the Foreign Sovereign Immunities Act (FSIA), 28 U.S.C.S. §§ 1330, 1602 was inapplicable in that the alleged acts were not taken within any official mandate and were therefore not acts of an agency of foreign state within FSIA. The appellate court also stated that the district

law practice representing the plaintiffs. He reports that plaintiffs have faced an uphill battle with enforcement of the judgment because the Philippine government claims ownership of the Marcos ill-gotten assets.<sup>53</sup> Notwithstanding the partial success of this litigation, the judiciary in most countries are very reluctant to award damages for past atrocities, especially those that happened in the distant past, for fear of usurping legislative authority.<sup>54</sup>

The tort model has been more successfully implemented through legislation. In 1994, the Florida Legislature enacted the Rosewood Compensation Act.<sup>55</sup> The Act is designed to pay victims or their survivors for the white violence that destroyed the predominantly black town of Rosewood, Florida, in 1923. Although the Act declares that the State of Florida officially acknowledges that white violence demolished Rosewood, no apology was offered. Florida clearly desired to effectuate a settlement in order to make the matter go away, and nothing more than that. Some of the settlement payments are designed to be compensatory while others are intended to be rehabilitative in a strange way with reference to “minority persons” rather than black Floridians. Section 5(1) of the Act provides scholarships “for minority persons with preference given to the direct descendants of the Rosewood families, not to exceed 25 scholarship per year” for post-secondary education. Section 5(2) states that each scholarship is worth \$4,000. Section 1 appropriates such funds from the General Revenue Fund of the Department of Education. Though the victims receive compensation for loss of property, the Act has been criticized as not being a

court correctly applied the ATS and correctly determined that money damages would be an inadequate remedy. *Hilao, et. al. v. Estate of Ferdinand Marcos*, 25 F. 3d 1467 (9<sup>th</sup> Cir., 1994) *cert. den. Estate of Marcos v. Hilo*, 513 U. S. 1126 (1995).

<sup>53</sup> On February 25, 2013, the Philippine Congress enacted Republic Act No. 10368 as redress in the form of tax-free compensation to eligible victims.

<sup>54</sup> See BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 98-100.

<sup>55</sup> Laws of Florida, 1994, c. 94-359, *as amended*, 1995 Bill Text FL S.B. 712.

“reparation” because it includes compensation to individuals who are not victims of descendants of victims.<sup>56</sup>

Cash compensation to victims or their descendants can be made as direct cash payments (DCP) or conditional cash payments (CCP). The former allows the money to be spent in any way the recipient desires—a trip to a casino or a vacation to Hawaii. In contrast, CCP are restricted. Cash payments can only be used for designated purposes, such as for education (as in the case of Rosewood) or the purchase of a home, payment of rent or start of a small business.

The perpetrator apology is the distinguishing feature between the tort model and atonement model. While such an apology is unnecessary for compensatory justice, certainly not for retributive justice, it is essential for restorative justice. The absence or presence of an apology necessarily determines the character of the reparations and, hence, the nature of redress.

#### **E. Atonement Model<sup>57</sup>**

If the tort model is backward-looking, victim-focused, and compensatory, the atonement model is forward-looking, perpetrator-focused, and restorative. The latter is driven by the perpetrator’s apology, a condition absent from the tort model. The apology lays the foundation for the perpetrator’s side of restorative justice; that is, repair of the broken relationship between the perpetrator and the victim occasioned by the atrocity and to repair of the perpetrator’s moral character sullied by the atrocity. Requiring the California government to tender a prefatory apology moves redress in the state in the direction in my opinion, which direction is one of racial reconciliation.

Unlike the tort model, the atonement model places the burden of redress on the perpetrator rather than on the victim. For, when the perpetrator apologizes, it must then demonstrate the

<sup>56</sup> See, e.g., Kenneth B. Nunn, *Rosewood*, in *WHEN SORRY ISN’T ENOUGH*, *supra* note 1, at 436-37.

<sup>57</sup> See BROOKS, *ATONEMENT AND FORGIVENESS*, *supra* note 33, at Ch.5.

sincerity of the apology by a redemptive act. The weight of the reparations demonstrate the sincerity of the apology. Thus, unlike the tort model, the atonement model uses reparations as a means of turning the rhetoric of an apology into a relevant, material reality. Simply saying “I’m sorry” is not enough. The perpetrator must tender an apology and concretize it with sufficient reparations. Apology plus reparations constitute atonement.

The apology must be genuine, which is to say it must confess the deed, admit that the deed was an injustice, do so in a remorseful way, and ask for forgiveness.<sup>58</sup> A genuine apology is an acknowledgement of guilt rather than a punishment for guilt.<sup>59</sup> When Congress issued a Concurrent Resolution in 2009 “apologizing” for slavery and Jim Crow, it failed to do so in a genuine fashion.<sup>60</sup>

Most proponents of the atonement model believe rehabilitative reparations offer the best path to perpetrator/victim reconciliation. Restorative justice is best achieved with reparations that empower the victims’ community rather than with reparations that merely compensate the victims directly. No amount of compensation, whether monetary or non-monetary, can return the victims to the *status quo ante*. But by targeting the lingering effects the atrocity has had on the victims’ community, the perpetrator can provide a more effective means of redress. The argument is that rehabilitative reparations redress the lingering effects of an atrocity more effectively than compensatory reparations.

<sup>58</sup> *See supra*, Part IIB.

<sup>59</sup> *See* BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 141.

<sup>60</sup> *See supra*, Part IIB. The concurrent resolution is a watered-down version of the House Bill in which a provision suggesting that Congress would pay reparations was omitted from the Concurrent Resolution by Republicans in the Senate. The House Resolution, passed on July 29, 2008, stated that the House of Representatives “expresses its commitment to rectify the lingering consequences of the misdeeds committed against African Americans under slavery and Jim Crow. . . .” H. Res. 194 (110th): “Apologizing for the enslavement and racial segregation of African-Americans,” Govtrack, July 29, 2008, <https://www.govtrack.us/congress/bills/110/hres194/text> (accessed July 4, 2020).

This is not to suggest that rehabilitative and compensatory reparations cannot coexist under the atonement model. The Civil Liberties Act of 1988, which provided redress for Japanese American evacuation, relocation, and interned during the Second World War, proceeded under the atonement model. Non-monetary rehabilitative reparations were issued in the form of research and educational programs, and monetary compensatory reparations were issued in the form of DCP of \$20,000 each (tax free) to the approximately 82,250 surviving victims (of the approximately 120,000 people interned) totaling about \$1.6 billion. Both conservative and liberals criticized the compensatory reparation; the former on the ground that only “symbolic” redress was warranted (if redress was warranted at all) and the latter on the ground that more money should have been given to the victims.<sup>61</sup>

A genuine apology and a sufficient reparation (collectively, atonement) lay the foundation for reconciliation. The perpetrator’s request for forgiveness, one of the elements of a genuine apology, starts the reconciliation process. Provided that the reparations are sufficient—the determination of which is made by the victims through a long-term process of negotiations with the perpetrator—the request for forgiveness arrives on the victim’s desk like a subpoena; it must be answered.

Forgiveness is an omnipresent theme in literature, religion, and culture worldwide. A famous Chinese aphorism states: “He who opts for revenge must dig two graves.”<sup>62</sup> Paul Lauritzen

<sup>61</sup> The truth commission established by Congress to study the atrocity committed against Japanese Americans incorrectly estimated that there were approximately 60,000 surviving internees. The miscalculation was based on using actuarial tables relating to white male life expectancies. Ultimately the Office of Redress Administration (ORA) identified, located, and paid \$20,000 to 82,250 former detainees for a total of more than \$1.6 billion before it officially closed in February 1999. U.S. Department of Justice, *Ten Year Program to Compensate Japanese Americans Interned During World War II Closes Its Doors*, February 19, 1999, <http://www.justice.gov/opa/pr/1999/February/059cr.htm>. The ORA ran out of funds after paying only 145 claimants. A coalition sued the government for “breach of fiduciary duty” before Congress authorized an additional \$4.3 million. Jason Ma, *Reparations Suit Dismissed*, ASIAN WEEK, November 25, 1999. See generally *Japanese Americans*, in *WHEN SORRY ISN’T ENOUGH*, *supra* note 1, at Part 4.

<sup>62</sup> See BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 164.

provides what can be viewed as a consensus definition of forgiveness. He defines forgiveness as “a two-part response to a situation of injury; negatively, it is the remission of an attitude of resentment evoked by the injury; positively, it is an effort to reestablish a broken relationship”<sup>63</sup> Forgiveness does not equate with amnesia. Archbishop Desmond Tutu,<sup>64</sup> constantly advised the victims of an atrocity to “forgive but do not forget.”<sup>65</sup> On the other hand, Nietzsche believed that forgiveness manifests a “slave morality,” and S. J. Perelman once quipped: “To err is human, to forgive supine.”<sup>66</sup> I agree with Bishop Tutu; for, I believe in reconciliation when the perpetrator and victims are locked into a long-term relationship. Forgiveness is needed for reconciliation.

It is very important to understand that forgiveness does not nullify our civil rights laws. These laws are symmetrical; redress is asymmetrical. Forgiveness only means that the victims have reason to feel invested in the country—the relinquishment of anger and resentment—and that the perpetrator has an additional reason to believe that redress is worth the effort. Indeed, without forgiveness, the perpetrator and non-victim citizens (e.g., white Americans regarding slave redress) would feel less inclined to support redress. By offering forgiveness, the victims’ request for redress looks more reasonable.

Whereas the perpetrator has a moral obligation to atone, the victims have a civic obligation to forgive. Precisely how forgiveness is to be manifested is a matter for discussion among the victims and by the victims individually. Of course, the question of forgiveness does not arise under the tort model. As my focus in this paper is on the perpetrator’s redress, I do not discuss the question of forgiveness at this time.

<sup>63</sup> *Id.* at 164-65.

<sup>64</sup> *See supra*, Part IIA for a discussion of this historic figure.

<sup>65</sup> BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 165. *See* DESMOND TUTU, NO FUTURE WITHOUT FORGIVENESS (1999).

<sup>66</sup> *See* BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 166.

### **Part III**

#### **Conclusions and Recommendations**

Thirty years ago, I was asked by the editor of an academic press to write a book on “black reparations.” What I had known about the subject, mainly a book on the subject written by my former law professor while I was a student at Yale Law School and N’COBRA—left me uninterested in the topic. I did not see any value in spending several years researching and writing a book. The publisher, however, wanted me to take a different approach; one based on an international perspective. I agreed to write the book, and spent years researching atrocities around the world, visiting cities in Europe and the Far East with long histories of atrocities, and presenting papers at gatherings of scholars, government officials, NGOs, and activists worldwide. Here is what I know about the best practices in redressing slavery.

#### **A. Purpose of Redress—Racial Reconciliation**

Redress for slavery ought to be about racial reconciliation, racial healing. This means that what I (and now most redress scholars) call the “atonement model” should be pursued in lieu of the “tort model.” These models of redress offer different visions of what post-conflict justice looks like. The tort model is driven by the desire for compensatory (and sometimes punitive) justice,<sup>67</sup> whereas the atonement model pursues restorative (and sometimes redistributive) justice.<sup>68</sup> The tort model seeks to simply settle the matter. Typical of any settlement, there is no admission of guilt by the perpetrator. This is justice on the cheap, in my view. In contrast, racial reconciliation—restorative justice—is more ambitious morally and civically. It seeks to repair the broken relationship between the perpetrator and its victims as well as repair the perpetrator’s moral

<sup>67</sup> See *supra* Part IID.

<sup>68</sup> See *supra* Part IIE.

character in the aftermath of the atrocity. Both repairs are necessary for racial healing in California because the government and the victims of slavery are locked in a long-term relationship.

Racial reconciliation cannot be achieved without a *genuine* apology from the government and an acceptance of that apology from the victims of slavery.<sup>69</sup> Forgive but never forget, as Desmond Tutu constantly advised black, or indigenous, South Africans.<sup>70</sup> People of probity and intelligence are more likely to support elevated efforts at redress than endeavors that only involve writing a check. This suggests that the argument in favor of redress is both moral and civic.

### **B. The Case for Redress—Moral and Civic Obligations**

Like many past atrocities, slavery was legal when it was extant. Ergo, the argument for redressing slavery post-conflict must be based on moral rather than legal grounds. Under the atonement model, the case for redress can be made consistent with the legal status of slavery. I made this argument with respect to the United States as follows:

When a government commits an atrocity against an innocent people, it has, at the very least, a moral obligation to apologize and to make that apology believable by doing something tangible called a ‘reparation.’ The government of the United States committed atrocities against black Americans for two and one-quarter centuries in the form of chattel slavery and for an additional one-hundred years in the form of Jim Crow—what Supreme Court Justices Ruth Bader Ginsburg and Stephen Breyer refer to as ‘a law-enforced racial caste system’—and it has not even tendered a genuine apology. The U.S. Government should, in fact, atone—

<sup>69</sup> For a discussion of who the victims of slavery are for purposes of redress in California, *see infra*, Part IIID.

<sup>70</sup> *See* DESMOND TUTU, NO FUTURE WITHOUT FORGIVENESS (1999).

that is apologize and provide reparations—for racial slavery and apartheid. Saying ‘I’m sorry’ just isn’t enough.<sup>71</sup>

This argument in favor of redress in California imbibes Adenauer’s belief that when “unspeakable crimes have been committed” they “demand compensation and restitution, both moral and material.”<sup>72</sup> Yet, my argument raises several questions, three of which are addressed here.

First, if the redress claim is essentially a moral claim, why isn’t an apology sufficient to satisfy that claim? This question was raised in response to the Civil Liberties Act of 1988. An apology by itself is insufficient redress for a past atrocity because a redemptive act is needed to make the apology believable. Otherwise, the apology is simply rhetoric. Under the atonement model, the redemptive act is a reparation. Simply saying “I’m sorry” is not enough.

Second, does the presence of monetary reparations commodify the redress claim, contradicting its moral character? Money is often the only way to concretize rights, whether moral or legal. A monetary reparation, whether at the individual (compensatory) or institutional (rehabilitative) level is the present-day embodiment of a victim’s moral claim. It concretizes the moral claim and, hence, gives redress meaning.

Finally, any redress program requiring legislation ultimately turns redress into a legal proposition regardless of the moral claim. Slavery was legal when it was extant. Why shouldn’t we simply accept the consequences of our duly enacted laws? My response is straightforward. Given the substantial moral weight of the redress claim, it must be cognizable under current law—*lex scripta* at the very least. Otherwise, the legislature’s failure to redress slavery stands as sequel to the state’s worst atrocity and the laws that made the atrocity possible. A legislatively created

<sup>71</sup> See BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at ix.

<sup>72</sup> See *supra* text at note 1.

redress program is a credibility check on the legislative branch of government no less than *Brown v. Board of Education* was a credibility check on the judicial branch in 1954.

In short, the case for redress in California identifies the state with the International Redress Movement. This connection embraces the conviction that the main argument for redressing a past atrocity and its lingering effects is to move the citizens of the state forward by accentuating a common humanity between the perpetrator and the victims. Indeed, a decision not to go forward with redress would be callous, cruel, morally reprehensible, and civically irresponsible.

### **C. Forms of Redress**

The state's redress regime ought to contain the following elements: (1) a truth and reconciliation commission; (2) a genuine apology, and (3) mainly rehabilitative reparations. The victims' side of the atonement model—forgiveness—is not a proper subject for the perpetrator's consideration. It is left to the victims to determine among themselves whether they will forgive and, if so, how forgiveness will be manifested. No doubt, the weight of the reparations will be part of that calculation.

#### **1. *Truth and Reconciliation Commission***

A California Truth and Reconciliation Commission (CTRC) should be established, similar to what was created for Japanese Americans. The purpose of the CRTTC should be to educate the citizens of the state about the atrocity and the case for redress—racial reconciliation. It should make clear that it is legislating a redemptive act on behalf of the state, not alms for the victims.

The CTRC should present verifiable truth, not political truth with its alternative facts. Thus, “practical idealism” should be the commission's guiding principle in making its proposals, as it was for Frederick Douglass and Martin Luther King, Jr. in speaking out against racial injustice. This means that the CTRC should tender proposals that are within reach of morally motivated

individuals and institutions, proposal that set the moral compass of the citizens of the state.<sup>73</sup> For that reason, the CTRC should not be “balanced” with opposing *political* perspectives. Instead, its membership should consist of recognized experts on slavery in the state, experts on the lingering effects of this atrocity, and experts on the redress process. The people of California ought to be presented with the unvarnished truth before the horse-trading in the political process begins.

## ***2. Genuine Apology***

The failure to apology for a moral transgression undercuts any notion of a common humanity between the perpetrator and the victims of an atrocity. It is not unlike a person walking down the street who steps on your foot, looks back at you, and walks away without apologizing. How insulting. Hence, the California government must apologize to victims of slavery, and the apology must be genuine. It must confess the deed, admit the deed was an injustice, repent, and ask for forgiveness.<sup>74</sup> In the context of the atonement model, an apology is an acknowledgment of guilt rather than a punishment for guilt.<sup>75</sup>

## ***3. Reparations***

Keeping in mind that redress necessarily involves asymmetrical civil/human rights measure and that these measures do not obviate the need for ongoing symmetrical civil/human rights measures (e.g., garden-variety civil rights laws), California ought to pursue rehabilitative reparations. Such reparations are the best way to demonstrate the sincerity of the state’s apology. I am not in favor of compensatory reparations. This puts me at odds with most African Americans who seem to be in favor of cash reparations in the form of direct cash payments (DCP).

<sup>73</sup> See ROY L. BROOKS, *RACIAL JUSTICE IN THE AGE OF OBAMA* 110 (2009).

<sup>74</sup> See *supra*, Part IIB.

<sup>75</sup> The Concurrent Resolution passed by Congress in 2009 apologizing for slavery and Jim Crow is not a good precedent for how California ought to apologize. See *id.*

I have several problems with DCP. First, they will likely not provide any sustainable redress. Not only will the individual amounts be too modest to make much of a difference in the lives of the victims, but they are likely to be misspent. John Cook, a lawyer who represented victims of Apartheid in South Africa, informed me at a meeting in Copenhagen, Denmark, that just one year after receiving DCP the victims were poor again. This gives support to Chris Rock's quip that "the only one who will benefit from reparations is KFC."

DCP could, however, be presented as an income supplement rather than as a one-time cash payment. But it would have to be substantial to be meaningful; something like a payment of \$30,000/year/household member lasting for one or two generations. A family of four, for example, would receive \$120,000/year/household.

But DCP is rather risky. The money could be gambled away at a casino. There is also the problem of what scholars refer to as "predatory inclusion." This problem occurs when unscrupulous vendors (e.g., insurance companies or investment schemers) or greedy relatives take advantage of unsophisticated recipients of reparative income.

Given these problems, conditional cash payments (CCP) could be used. Payments would be restricted, such as to establish school booster clubs that finance after-school activities in public schools attended by enslaved descendants, to pay for private tutors or to pay tuition at private schools, to purchase a home or pay rent in better school district, or to start up a small business. Determining the total amount of the reparations and how the program is to be financed are issues that can be address once an agreement in principle is reached.<sup>76</sup>

<sup>76</sup> The total amount of reparations could be equivalent to a desired increase in the percentage of the national wealth owned by blacks. "Today, Black Americans constitute approximately 13 to 14 percent of the nation's population yet possess less than 3 percent of the nation's wealth." William Darity Jr., Testimony concerning HR40, The Commission to Study and Develop Reparations Proposals for African-Americans, June 19, 2019 (116th Congress 2019-2020), <https://sanford.duke.edu/sites/sanford.duke.edu/files/images/Dr.%20Darity%20Reparations%20Remarks%20for%20Congress.pdf> (accessed December 12, 2019). Alternatively, the total amount of reparations could be determined by

CCP is, however, problematic. It denies agency to the victims of the atrocity. We do not place restrictions on the plaintiff's use of a jury award in a personal injury case. So why should we treat reparations differently? Are the victims not being disrespected, being treated like children? Also, victims who have received DCP have, in fact, made responsible choices. For example, I have spoken with several Japanese Americans who have used their funds to help put their grandchildren through Berkeley, as one recipient told me. But these were one-time payments. I do, in fact, concede the power of the agency argument. However, the power of that argument is predicated on tort-model thinking, which model I reject. I think rehabilitative reparations are in the best interest of enslaved descendants and, indeed, all Californians.

Rehabilitative reparations are asset-building reparations. CCP can also build asserts, such as by restricting them to home ownership, but like any compensatory reparation they are difficult to calculate and distribute when dealing with millions of victims. (There were only 60,000 Japanese Americans and around 90,000 South Africans who received reparations.) Rehabilitative reparations can avoid these administrative nightmares if fashioned properly as well as the agency issue.

Rather than pursuing a hodgepodge of rehabilitative reparations, I believe it is best to focus on one or two specific reparations tailored to one or two specific linger effects of slavery. I would focus on lingering effects in education. Charles Hamilton Huston and Thurgood Marshall made the strategic decision to focus the fight against segregation on education—children—as that was the least controversial battleground on which to fight. The great victory in education started a movement the spread to housing, employment, voting, and other areas of American life. California ought not ignore the wisdom of the Huston/Marshall strategy.

multiplying the average racial earnings gap by the number of enslaved descendants each year the program is in existence. *See* BROOKS, ATONEMENT AND FORGIVENESS, *supra* note 33, at 162-63.

For K-12 education, one might consider the establishment of boarding schools in suburban areas (green communities) throughout the state for descendants of the enslaved. Students would live, eat, play, and go to classes in the same structure. Education takes place less in the classroom than in doing homework assignments in an academically supportive environment supervised by qualified individuals. (The Ivy League universities are set up in this way. Tutors are available in the dorms even at midnight.) Boarding schools for the rich are traditional in New England. Atonement Boarding Schools would serve two main purposes. First, they would remove promising students from challenged schools and challenged neighborhoods and place them in living conditions conducive to academic success. Second, they would provide a basis for intergenerational success—educational and socioeconomic—for enslaved descendants. A parents' academic success is usually passed down to children and grandchildren along with the socioeconomic success that goes along with it. The children and grandchildren of many of my black classmates of Yale Law School have not needed affirmative action to follow their parents' academic success.

#### **D. Constitutionality of Redress**

The constitutional question arises in relation to reparations as they can entail race-specific distributions of public monies, goods or services. Prop 209 and the fact that the Supreme Court is indisposed to permit race-conscious remedies even in response to a proven violation of law pose an existential threat to reparations. While I was not asked to respond to the constitutional question, I will offer the following preliminary thoughts.

Reparations should be based not on race but on slavery—the recipient's connection to slavery. Redress, after all, is about slavery even though slavery and race are closely connected. Awarding reparations on the basis of the recipient's connection to slavery does not raise Prop 209

or U.S. constitutional issues because the decision is not race-conscious. During the seventeenth and eighteenth centuries, more than 300,000 white people lived and died in bondage in the American colonies.<sup>77</sup> Color became the marker of slavery after that time. The white slave trade in America in no way plays down the horrors of the much larger black slave trade that followed it.<sup>78</sup> But it does indicate that slavery was not entirely binary. I do not see a state or federal constitutional issue if white slaves appeared in California and reparations is based on a connection to slavery.

<sup>77</sup> See, e.g., DON JORDAN AND MICHAEL WALSH, *WHITE CARGO: THE FORGOTTEN HISTORY OF BRITAIN'S WHITE SLAVES IN AMERICA* (2008). Others also recognize the importance of the book. Joyce Lau writes: "Mainstream histories refer to these laborers as indentured servants, not slaves, because many agreed to work for a set period of time in exchange for land and rights. The authors argue, however, that slavery applies to any person who is bought and sold, chained and abused, whether for a decade or a lifetime. Many early settlers died long before their indenture ended or found that no court would back them when their owners failed to deliver on promises. And many never achieved freedom or the American dream they were seeking. . . . *White Cargo* is meticulously sourced and footnoted. . . . Quotations from 17th- and 18th-century letters, diaries and newspapers lend authenticity as well as color. Excerpts from wills, stating how white servants should be passed down along with livestock and furniture, say more than any textbook explanation could. . . . Joyce Lau, *Master and Servant*, NEW YORK TIMES BOOK REVIEW, APRIL 27, 2008, <https://www.nytimes.com/2008/04/27/books/review/Lau-t.html>.

<sup>78</sup> The authors of *WHITE CARGO* take care to quote African American sources and clearly state that their research and perspective does not diminish the significance of the much larger black slave trade that came later.

**Stacey L. Smith****Expert Witness Testimony before the Task Force to Study and Develop Reparation Proposals for African Americans, September 23, 2021.**

Greetings to the members of the Task Force. It is an honor to speak before you today. My name is Stacey Leigh Smith, and I am an associate professor of history at Oregon State University. My areas of research specialization are the US West, slavery, and the Civil War and Reconstruction. I have studied the history of slavery and Black civil rights in nineteenth-century California for approximately eighteen years, and I have published extensively on these topics.<sup>1</sup> I am testifying today to share my findings on the state of California's relationship to the institution of slavery in the early decades of statehood.

My testimony today will cover two major topics: 1) the existence of slavery in California and the experiences of enslaved Black people; and 2) the role that California's early lawmakers and judges played in protecting slavery and promoting anti-Black oppression in the state.

The existence of slavery in California seems puzzling at first. Famously, California was supposed to be a free state with an antislavery constitution. It entered the federal union as part of the Compromise of 1850, a brokered political deal aimed at appeasing both pro- and antislavery Americans.<sup>2</sup> Yet, at the same time, there is ample evidence that the enslavement of people of African descent happened in California. What is more, California's early state government protected the institution of slavery and severely restricted Black people's civil rights.<sup>3</sup> I will aim to explain this disconnect.

One of the key reasons that the state of California tolerated slavery was that the enslavement of Black people had already taken root there before the drafting of the antislavery constitution in 1849. California had been part of Mexico before the United States seized it in the U.S.- Mexico War of 1846 to 1848. Mexico had abolished slavery in 1829,<sup>4</sup> but American slaveholders began forcibly bringing enslaved Black people into California before, during, and after the US-Mexico War, especially once the gold rush began in 1848.<sup>5</sup>

The exact number of enslaved Black people in California is difficult to determine. My detailed analysis of census records reveals approximately 203 enslaved Black people living in California in 1850 and approximately 178 in 1852.<sup>6</sup> These are almost certainly undercounts because gold rush-era census records are notoriously incomplete.<sup>7</sup> Given the fragmented records, I support the findings of historian Rudolph Lapp who estimated that at least 500 – 600 enslaved Black people lived in California during the gold rush.<sup>8</sup>

Each of these enslaved people almost certainly suffered traumatic uprooting. Going to California meant a forced separation from family, friends, and community by a distance of thousands of miles.<sup>9</sup> Even though slaveholders framed this separation as temporary, most goldseekers spent at least two years in California—and usually many more—due to the distance and difficulty of the journey.<sup>10</sup> For example, an enslaved North Carolina man, known only as John, arrived in California with slaveholder Robert M. Dickson in 1852 and stayed at least three years, until Dickson's sudden death in 1855.<sup>11</sup> The historical record is silent about whether John ever returned to North Carolina. His journey to California may have resulted in permanent separation from his family.

Like John, most of the enslaved people forced to migrate to California were younger men or teenaged boys who ended up working as miners in the gold country.<sup>12</sup> These enslaved miners faced backbreaking

and often dangerous working conditions. Placer mining, the most common type of mining in the earliest days of the California gold rush, involved digging up soil from the beds and banks of rivers and creeks. Sometimes, miners dammed up and diverted these bodies of water to get at gold deposits deep in the beds. These techniques often required standing knee- or waist-deep in cold rushing water for several hours each day in the broiling summer heat.<sup>13</sup> Overwork, exposure to the elements, poor sanitation, a lack of nutritious food, and the absence of medical care contributed to long-term illnesses or death by disease.<sup>14</sup> For instance, several enslaved men from western North Carolina died in a cholera epidemic, along with their enslaver, in Tuolumne County in 1852.<sup>15</sup> Accidents and injury were also common, as seen in the life of an enslaved man from Kentucky, known only as Rheubin. He drowned in the American River while working in the gold country in 1851.<sup>16</sup>

Not all enslaved people worked directly in mining. Women and girls, who made up less than one quarter of all recorded enslaved people in California,<sup>17</sup> often labored as domestic servants, cooks, or laundresses in private homes, hotels, restaurants, or boarding houses.<sup>18</sup> Skilled domestic workers were so scarce, and the wages of their labor so high, that slaveholders often rented both enslaved women and men to owners of these establishments. This practice was called "hiring out." Slaveholders then pocketed all or most of the enslaved people's wages from their rented labor.<sup>19</sup>

Much like enslaved people in the US South, those in California also faced brutal violence. In 1850, one slaveholder beat an enslaved man in the town square of San Jose for disobeying him. Local authorities arrested both men, but ultimately determined that the slaveholder was not guilty of assault because his victim was legally his slave.<sup>20</sup> In another case from 1850, an elderly enslaved couple ran away near the town of Sonora. When the slaveholder caught them, he whipped the elderly man until his blood flowed so heavily that it filled his shoes.<sup>21</sup> One of the worst incidents of violence also happened in 1850, this time in Los Angeles. A group of white southerners chased, shot at, and captured a handful of escaped enslaved people and then beat them until one nearly died.<sup>22</sup>

The forced journey to California resulted in diverse outcomes for the enslaved people who survived it. Many people probably worked in California for a few years before returning to enslavement in the South. Others, especially those who were allowed to keep a small portion of their wages from hiring out or digging gold, saved enough money to purchase their freedom.<sup>23</sup> Finally, some enslaved people labored under formal or informal indenture agreements by which they promised to work for a certain number of years in California in exchange for their freedom.<sup>24</sup> Enslaved people who gained their own freedom might then also earn enough money to free their family members.<sup>25</sup>

Of course, many enslaved people also saw California as a place where they could seize their own freedom or renegotiate the terms of their enslavement. The California gold country was large, isolated, and full of diverse people, including antislavery Black and white northerners. It was generally far easier to run away, hide, and find allies in California than in the southern slave states.<sup>26</sup> But it is important to remember that all enslaved people who went west were forced to leave their family members and communities behind in the South. Escape, therefore, was not a viable option for many enslaved people because staying with slaveholders was their only way to maintain their family ties. Slaveholders, in effect, used their control over enslaved people's family members as leverage to force them to cooperate. For this reason, enslaved people may have been more likely to resist in other ways. Some, for instance, refused to work or escaped temporarily until they were allowed to keep more of their

earnings.<sup>27</sup> This might have been a more secure path to freedom if they earned enough to buy themselves and their family members out of slavery.

California's 1849 antislavery state constitution did little to stop the violence and exploitation that enslaved people suffered. The new constitution proclaimed that "neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State."<sup>28</sup> The problem was that slavery already existed in the state and was already being tolerated there. Furthermore, the constitution was silent about what should happen to enslaved people in the state. It was one thing for the California constitution to declare that slavery would not be tolerated; it was quite another thing actually to criminalize slavery, emancipate enslaved people, punish slaveholders, and give Black people protections for their freedom.<sup>29</sup>

Proslavery white southerners took advantage of this discrepancy to perpetuate slavery in California. During California's 1849 Constitutional Convention, proslavery delegates from the South had quietly accepted a provision banning slavery without protest or discussion.<sup>30</sup> After statehood, however, a disproportionately large number of proslavery men won political office in California. White southerners with proslavery views were prominent in the state legislature, the state courts, and among California's representatives in Congress.<sup>31</sup> During the 1850s, these men used their newfound power to commit the state of California to protecting slaveholders' rights by passing and upholding laws that skirted around the antislavery constitution.

The California government's most proslavery action was passing and enforcing a state fugitive slave law in 1852.<sup>32</sup> Proslavery southerners were angry to discover that the federal fugitive slave law of 1850, a harsh new law to help slavecatchers chase down and re-enslave runaways, did not apply to most cases in California. Slaveholders could only use the federal law to catch and reenslave people who escaped across state lines, not those who ran away within the state's borders.<sup>33</sup> In 1852, the California state legislature addressed this issue by greatly expanding the definition of who counted as a fugitive slave. California's new state law defined a fugitive slave as any enslaved person who arrived in the state prior to official statehood in September 1850 but who refused to return to the slave states with their enslaver. These people were subject to arrest and deportation back to the US South.<sup>34</sup> The legal rationale for this law was that California's antislavery constitution did not officially go into force until the moment of statehood. Before then, California was a federal territory where, according to proslavery legal theory, the US Constitution entitled all citizens to migrate freely with any type of property they might own, including property in human beings. Therefore, the law's supporters argued that California had a constitutional duty to protect the rights of slaveholders who arrived before official statehood.<sup>35</sup>

The passage of this state fugitive slave law made California an outlier among free states. In the northeastern US, many free states resisted helping capture fugitive slaves.<sup>36</sup> The California fugitive slave law of 1852, on the other hand, authorized slaveholders to use violent means to capture enslaved people. It also ordered state officials to assist in the capture and arrest of enslaved people or they would face removal from office and heavy fines. Finally, the California fugitive slave law, like the federal version, strictly prohibited accused fugitives from testifying in their own defense.<sup>37</sup> California's laws banning non-white testimony in court cases involving white people compounded this injustice. Free Black activists, enslaved people's greatest allies, could not be witnesses in any court proceedings.<sup>38</sup>

The only redeeming feature of the California fugitive slave law was its short enforcement period. Slaveholders were supposed to have just one year to arrest and deport people who they claimed were

runaway slaves.<sup>39</sup> But, in 1853, California legislators renewed the fugitive slave law for another year.<sup>40</sup> They did the same thing again in 1854.<sup>41</sup> This meant that for three years, from 1852 to 1855, anyone accused of being a fugitive slave could be chased down, dragged before a court, and sent back to lifelong slavery in the South, even if they had been living in the free state of California for five years or more.<sup>42</sup>

Just a few months after the passage of the state fugitive slave law, free Black activists, with the assistance of white attorneys, brought a test case called *In re Perkins* all the way to the California Supreme Court.<sup>43</sup> The state's supreme court justices decided that three Black men—Carter Perkins, Robert Perkins, and Sandy Jones<sup>44</sup>—should be returned to enslavement in Mississippi because they had arrived with their enslaver before official statehood.<sup>45</sup> The court ruled that the antislavery section of the California constitution was only a “declaration of a principle.” The constitution said the state would not tolerate slavery, but California had no laws in place to enforce this decree.<sup>46</sup> The justices also agreed with the state legislature that California could not emancipate enslaved people who arrived before official statehood. The court accepted the extreme proslavery legal theory that the US Constitution guaranteed slaveholders the right to bring enslaved people into the federal territories without restrictions.<sup>47</sup> This decision foreshadowed the ruling in the much more famous case of *Dred Scott v. Sandford* five years later in 1857. In that landmark decision, the US Supreme Court ruled that the federal government could not close slavery out of any of the federal territories.<sup>48</sup>

Altogether, California courts tried at least 10 cases, involving the freedom of 13 people, under the state fugitive slave law between 1852 and 1855. In 5 of those 10 cases, the courts returned the accused runaways (7 people total) to slavery. These numbers may seem small, but this list only includes cases for which documentation still exists.<sup>49</sup> The small numbers also do not accurately reflect the terror that all Black people, free or enslaved, would have suffered under this law. When combined with the exclusion of Black court testimony against whites, the California fugitive slave law made every Black person vulnerable to being accused, arrested, or deported without being able to defend themselves.<sup>50</sup> Finally, it is also important to note the symbolic and political significance of the California fugitive slave law. In supporting this law, the California legislature and courts signaled their sympathy with the southern slave states and proslavery interpretations of the US Constitution.<sup>51</sup>

The California legislature finally let the state fugitive slave law lapse in 1855.<sup>52</sup> Still, fugitive slave cases continued. At least six additional cases, involving the freedom of 19 people, came before the California courts after 1855. All of these cases eventually led to the freedom of the enslaved people in question.<sup>53</sup> But in one particular case, that of Archy Lee in 1857/1858, the proslavery California Supreme Court made every effort to return the person to enslavement. Lee's enslaver, Charles Stovall, had brought the enslaved man to California years after statehood and the lapse of the state fugitive slave law. Still, the justices ruled that Stovall was so young, ill, and ignorant of California's laws that he should not be punished by losing his right to own Archy Lee. It took multiple lawsuits by free Black Californians, and intervention by federal legal officials, to secure Lee's freedom.<sup>54</sup>

Throughout the 1850s, California's political leaders were also complicit in other types of anti-Black legislation. California's 1849 Constitutional Convention delegates restricted the right to vote to white male citizens<sup>55</sup> and also debated a Black exclusion law to prohibit all future African American migration to the state.<sup>56</sup> The Black exclusion law did not make it into the constitution, but, at the urging of Peter Burnett, California's first governor, the legislature attempted to pass a Black exclusion four times in the

1850s.<sup>57</sup> In addition to barring black court testimony against whites, the California legislature also prohibited interracial marriage between Black and white people,<sup>58</sup> excluded Black people from making homestead claims in state courts,<sup>59</sup> denied state funding for Black children to attend public schools,<sup>60</sup> and refused to acknowledge petitions from Black activists seeking to change unjust laws.<sup>61</sup> The vicious anti-Black tone of state politics prompted many Black Californians to leave the state in search of greater freedom and equality.<sup>62</sup> Starting in 1858, up to 800 Black men, women, and children migrated north to the colonies of Vancouver Island and British Columbia where many became British subjects.<sup>63</sup>

The Civil War and Reconstruction brought important victories and bitter defeats for California's Black activists. In 1863, after twelve years of petitioning, activists finally convinced the California legislature—now dominated by antislavery Republicans—to repeal the ban on African American court testimony against whites.<sup>64</sup> The late 1860s, however, saw the return of anti-Black legislation. Hostile Democrats retook the legislature and refused to ratify the Fourteenth Amendment, establishing Black citizenship rights, and the Fifteenth Amendment, prohibiting racial discrimination against voters. California would not ratify these critical pieces of legislation until almost a century later during the civil rights movement.<sup>65</sup>

In the meantime, California's Supreme Court set another destructive precedent that the rest of the nation would eventually follow. In the 1874 case of *Ward v. Flood*, California's Supreme Court justices ruled that segregation in the state's public schools was legal so long as Black children and white children had equal access to similar educational facilities.<sup>66</sup> Twenty-two years later, the US Supreme Court adopted a similar "separate but equal" principle in the case of *Plessy v. Ferguson*. This decision upheld the segregation of public facilities in the United States for almost sixty years.<sup>67</sup> As with many things, California was ahead of its time, but in this case, tragically, the state led the way in establishing anti-Black racial oppression across the United States.

In closing, I would also like explain my personal reasons for testifying today. I am a white American who, like a large number of white Americans, is descended from slaveowners. This is not a subject my family talks about much. We proudly tell stories about my great-great-grandfather on my father's side, a son of antislavery German immigrants and a Civil War veteran who was severely injured fighting for the Union cause. But our emphasis on the heroism of my antislavery ancestor obscures an uglier truth. On my mother's side, my 4<sup>th</sup> great grandfather, Arthur Jernigan of Tennessee, came from a slaveowning family and claimed 7 human beings as his property. The 1830 US Census shows 1 Black man, 1 Black woman, and 5 Black children, three girls and two boys, enslaved by the Jernigans. These enslaved people were likely a family group made up of parents and children, but we will never know for sure because the census has no other information about them, not even their names. The historical record is also silent about what happened to them. The 1840 census showed that the Jernigans no longer owned slaves. It is possible that Arthur Jernigan set the enslaved people free, but the more likely, horrible reality is that he sold them off to pay debts or to buy land. If so, he probably did not sell them as a family group, but as individuals, ensuring that they were separated from their loved ones forever.

As a white person from an upper-middle-class family, I recognize that the privileges I have benefited from—economic security, access to higher education, and even my bodily safety—are built on the stolen intellect, labor, and skills of enslaved people who my ancestors also traumatically ripped away from their homes and families. For me, reparations means that white people like myself need to acknowledge not just the national debt that the United States owes to Black people for building the economic, social,

and cultural foundations of this country. Reparations also entail a deeply personal process of reflection about how to compensate Black Americans for the generational wealth and social upward mobility that white families like my own have gained from the exploitation and attempted destruction of Black families. I hope that my testimony today can help the state of California, and all Californians, grapple with these difficult questions.

Sincerely,



Stacey L. Smith  
Associate Professor of History  
Oregon State University  
Corvallis, OR

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<sup>1</sup> Smith, *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (2013); Smith, *Remaking Slavery in a Free State: Masters and Slaves in Gold Rush California* (2011) 80 *Pacific Hist. Rev.* 28; Smith, *Beyond North and South: Putting the West in the Civil War and Reconstruction* (2016) 6 *J. of the Civil War Era* 566; Dred Scott *on the Pacific: African Americans, Citizenship, and Subjecthood in the North American West* (2018) 100 *So. Cal. Q.* 44; and Smith, *California's Last Slave Case*, *New York Times* (March 5, 2014), <https://opinionator.blogs.nytimes.com/2014/03/05/californias-last-slave-case/>.

<sup>2</sup> Foner, *Forever Free: The Story of Emancipation and Reconstruction* (2005) 29 – 30.

<sup>3</sup> Smith, *Remaking Slavery in a Free State* 33.

<sup>4</sup> Smith, *Freedom's Frontier* 7.

<sup>5</sup> Lapp, *Blacks in Gold Rush California* (1977) 4 – 9, 130 – 139.

<sup>6</sup> Smith, *Freedom's Frontier* 240 – 245.

<sup>7</sup> Poor census taking in isolated mining camps, the constant population flux, the loss or destruction of census returns, and the possible desire of slaveowners to hide enslavement from census takers, make it impossible to construct a complete picture of enslavement in 1850s California. On these difficulties, see Smith, *Freedom's Frontier* 237 – 238 and Lapp, *Blacks in Gold Rush California* 64 - 65.

<sup>8</sup> Lapp, *Blacks in Gold Rush California* 65. One gold-rush era source, however, estimated that 1,500 enslaved African Americans lived in California in 1852, which may mean that these baseline numbers should be adjusted even higher. See Smith, *Freedom's Frontier* 40, 257.

<sup>9</sup> Smith, *Freedom's Frontier* 44.

<sup>10</sup> Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (1997) 256 – 261.

<sup>11</sup> Rohrbough, *Days of Gold* 211 – 214.

<sup>12</sup> Smith, *Freedom's Frontier* 239 – 245.

<sup>13</sup> Rohrbough, *Days of Gold* 136 – 138.

<sup>14</sup> Baur, *The Health Factor in the Gold Rush Era* (1949) 18 *Pacific Hist. Rev.* 97, 97 – 105.

<sup>15</sup> Insoe, *Mountain Masters: Slavery and the Sectional Crisis in Western North Carolina* (1996) 73.

<sup>16</sup> Smith, *Freedom's Frontier* 259.

<sup>17</sup> Smith, *Freedom's Frontier* 239 – 245.

<sup>18</sup> For some examples, see Beasley, *The Negro Trail Blazers of California* (1919) 70 – 71.

<sup>19</sup> Smith, *Remaking Slavery* 38 - 39; Lapp, *Blacks in Gold Rush California* 132 – 133.

<sup>20</sup> *A Slave Flogged in San Jose*, *Daily Alta California* (Feb. 16, 1850), p. 2, col. 3.

<sup>21</sup> *Slaveholding in California*, *Liberator* (Aug. 30, 1850), p. 140, col. 5.

<sup>22</sup> *An Illustrated History of Los Angeles County, California* (1889) 358 – 359; *Letter from California*, *Liberator* (Oct. 11, 1850), p. 161 col. 3.

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<sup>23</sup> Smith, *Freedom's Frontier* 52 - 54.

<sup>24</sup> Smith, *Freedom's Frontier* 57 – 63.

<sup>25</sup> Smith, *Freedom's Frontier* 54.

<sup>26</sup> Smith, *Freedom's Frontier* 50 – 52.

<sup>27</sup> Smith, *Freedom's Frontier* 52 – 54.

<sup>28</sup> Cal. Const. of 1849, art. I, § 18.

<sup>29</sup> Smith, *Freedom's Frontier* 65.

<sup>30</sup> Smith, *Freedom's Frontier* 7.

<sup>31</sup> Smith, *Freedom's Frontier* 8.

<sup>32</sup> An Act Respecting Fugitives from Labor, and Slaves brought to this State prior to her Admission into the Union, April 15, 1852, ch. 33, California Statutes, at 67–69.

<sup>33</sup> Smith, *Freedom's Frontier* 66 – 67.

<sup>34</sup> An Act Respecting Fugitives from Labor, and Slaves brought to this State prior to her Admission into the Union, April 15, 1852, ch. 33, Cal. Stat., at 67–69; Smith, *Freedom's Frontier* 67 – 70.

<sup>35</sup> Smith, *Freedom's Frontier* 67 – 70.

<sup>36</sup> Smith, *Freedom's Frontier* 67 – 68.

<sup>37</sup> An Act Respecting Fugitives from Labor, and Slaves brought to this State prior to her Admission into the Union, April 15, 1852, ch. 33, Cal. Stat., at 67–69; Smith, *Freedom's Frontier* 67 – 69.

<sup>38</sup> Smith, *Freedom's Frontier* 71 – 72.

<sup>39</sup> An Act Respecting Fugitives from Labor, and Slaves brought to this State prior to her Admission into the Union, April 15, 1852, ch. 33, Cal. Stat., at 67–69; Smith, *Freedom's Frontier* 69.

<sup>40</sup> An Act to Amend an Act respecting Fugitives from Labor and Slaves Brought to this State prior to her Admission into the Union, Act of April 15, 1853, ch. 67, Cal. Stat., at 94.

<sup>41</sup> An Act Amendatory to an Act to Amend an Act respecting Fugitives from Labor and Slaves Brought to this State prior to her Admission into the Union, Act of April 13, 1854, ch. 22, Cal. Stat., at 30.

<sup>42</sup> Smith, *Freedom's Frontier* 71 – 72.

<sup>43</sup> *In re Perkins*, 2 Cal. 424 (1852); Smith, *Freedom's Frontier* 70 – 71.

<sup>44</sup> The three men had arrived in California in 1849 with Charles Perkins, the son of their enslaver. When Charles Perkins went back to Mississippi in 1851, he informally emancipated the men. Once he heard about the new California fugitive slave law, Perkins decided to use it to reclaim the men and force them to return to Mississippi as slaves.

<sup>45</sup> *In re Perkins*, 2 Cal. 424 (1852).

<sup>46</sup> *In re Perkins*, 2 Cal. 424 (1852), 455 – 457.

<sup>47</sup> *In re Perkins*, 2 Cal. 424 (1852), 452 – 455.

<sup>48</sup> *Dred Scott v. Sandford*, 60 U.S. 393; In fact, one California antislavery attorney asserted that the lawyers for Dred Scott's enslavers cited the California case of *In re Perkins* as a precedent to support Scott's continued enslavement. For this evidence, see Cornelius Cole, "Judicial Influence--Politics upon the Bench, no. 3," scrapbook no. 1, box 38, Cole Family Papers, Charles E. Young Research Library, Department of Special Collections, University of California-Los Angeles.

<sup>49</sup> These include: 1) the Lathrop case, described in Lapp, *Blacks in Gold Rush California* 141 – 142; 2) the Perkins case, described in *In re Perkins*, 2 Cal. 424 (1852); 3) the case of Harriet Jordan, described in *Another Fugitive Slave Case*, Daily Alta California (Sept. 22, 1852), p. 2, col. 2 and *A Fugitive Slave Case*, Placer Times and Transcript (Sept. 22, 1852), p. 3, col. 1; 4) an anonymous enslaved woman in El Dorado County, described in *Fugitive Slave Case*, Sacramento Daily Union (Oct. 2, 1852), p. 2, col. 3; 5) the case of Lucy Brown, described in *Fugitive Slave*, Daily Alta California (April 20, 1853), p. 2, col. 2; 6) the O'Neil case, described in *Habeas Corpus*, Sacramento Daily Union (Jan. 19, 1854), p. 3, col. 2; 7) the case of an anonymous enslaved boy in Marysville, described in *Kidnapping*, Daily Alta California (March 31, 1854), p.2, col. 2 and *The Kidnapping Case*, Placer Times and Transcript (April 1, 1854), p. 2, col. 4; 8) the case of Stephen Spencer Hill, described in Johnson, *Roaring Camp: The Social World of the California Gold Rush* (2000), 67 – 68, 191; 9) the Kibbe case, described in untitled article, Daily Alta California (April 7, 1855), p. 2, col. 4; and 10) the case of George Mitchell, described in Lapp, *Blacks in Gold Rush California* 147.

<sup>50</sup> Smith, *Freedom's Frontier* 71 – 73.

<sup>51</sup> Smith, *Remaking Slavery in a Free State* 49 – 50.

<sup>52</sup> Smith, *Freedom's Frontier* 75 – 76.

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<sup>53</sup> These include: 1) The case of Bridget “Bidly” Mason, Hannah, and their enslaved children and grandchildren, described in Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528 – 1990* (1998) 79 – 80; 2) the case of Archy Lee, described in Smith, *Freedom’s Frontier* 76 – 78; 3) the Mathews case, described in *Alleged Abduction Case*, *San Francisco Bulletin* (Jan. 21, 1859), p. 3, col. 2; 4) the case of Nathaniel Rice, described in *Almost an ‘Archy Case,’* *San Francisco Bulletin* (Aug. 20, 1860), p. 3, col. 5; 5) the case of John Turner, described in *Attempt to Kidnap*, *Sacramento Daily Union* (Jan. 25, 1861), p. 3, col. 2; and 6) the case of Ada (Edith) Blue, described in Smith, *California’s Last Slave Case*, *New York Times* (March 5, 2014) <https://opinionator.blogs.nytimes.com/2014/03/05/californias-last-slave-case/>.

<sup>54</sup> Smith, *Freedom’s Frontier* 76 - 78.

<sup>55</sup> Cal. Const. of 1849, art. II, § 1.

<sup>56</sup> Richards, *The California Gold Rush and the Coming of the Civil War* (2007) 73 – 77.

<sup>57</sup> Smith, *Freedom’s Frontier* 61 – 63.

<sup>58</sup> An Act Regulating Marriages, April 22, 1850, ch. 140, § 3, Cal. Stat., at 424.

<sup>59</sup> “An Act extending the Privileges of the Homestead Law to certain Persons, and to Regulate the Creation of the Same,” March 18, 1860, ch. 120, § 2, Cal. Stats., at 87 - 88.

<sup>60</sup> Smith, *Dred Scott on the Pacific* 50.

<sup>61</sup> Lapp, *Blacks in Gold Rush California* 196 – 197.

<sup>62</sup> Lapp, *Blacks in Gold Rush California* 239 – 245.

<sup>63</sup> Smith, *Dred Scott on the Pacific* 46.

<sup>64</sup> Lapp, *Blacks in Gold Rush California* 206 – 209.

<sup>65</sup> Smith, *Freedom’s Frontier* 210 – 214. California ratified the Fourteenth Amendment in 1959 and the Fifteenth Amendment in 1962. See also Waite, *Early California lawmakers also preached #resistance—but against immigration*, *Los Angeles Times* (Aug. 3, 2018), <https://www.latimes.com/opinion/op-ed/la-oe-waite-california-14-amendment-20180803-story.html>.

<sup>66</sup> *Ward v. Flood*, 48 Cal. 36 (1874).

<sup>67</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

**Testimony prepared for the State of California's Task Force to Study and Develop  
Reparations Proposals for African-Americans**

**John Parman, Associate Professor of Economics, William & Mary**

**September 24<sup>th</sup>, 2021**

Thank you for this opportunity to speak to you and contribute to the important work you are tasked with. I would like to begin with brief summary of my background to provide context for my testimony. My training, research and teaching are squarely within the realm of economics, having received my Ph.D. in economics from Northwestern University in 2008, teaching in the economics department at the University of California – Davis from 2008 to 2011, and then taking a tenure-track position in economics at William & Mary in 2011. I am now an associate professor there teaching in both the economics department and the public policy program. My research focuses largely on the relationships between education, health and race in the early-20<sup>th</sup> century.

I say all of this to emphasize that my comments will focus squarely on the scholarship of economists regarding the Great Migration. The details I offer are an incomplete story without the contributions of sociologists, historians, political scientists and the lived experiences of the individuals actually taking part in the Great Migration. The work I will highlight sheds light on very specific pieces of the African American experience, but the way those pieces fit into a whole is a complex story beyond the scope of this testimony.

The economics literature on the Great Migration has been steadily expanding, particularly in the past decade (Collins, 2021). This growth is due in part to newly available datasets but also a gradual although certainly incomplete shift in the profession toward studying a more diverse set of experiences in economic history. In the following remarks, I will outline the attempts of economists to understand the economic forces driving the decisions of African Americans to migrate, the outcomes of migrants in their new towns and cities, and the ways that those cities evolved as a consequence of the inflows of migrants.

While much of the decision to migrate out of the South was certainly related to the pervasive and institutionalized discrimination of the Jim Crow South, economic opportunity played a clear role in the timing and geography of the Great Migration. The early waves of migrants were attracted North in part by the increased demand for workers to meet the industrial production needs of World War I. Increasing employment opportunities in sectors such as manufacturing would continue to draw workers out of the South through the middle of the twentieth century.

The geographic distribution of these economic opportunities in conjunction with the layout of the existing transportation networks strongly influenced patterns of out migration. This is clearly seen in the case of California, where migrants were drawn heavily from the states along the Southern Pacific's "Sunset Route". In 1950, over 40 percent of California's African American population was born in Texas or Louisiana.<sup>1</sup> While transportation networks heavily influenced the initial connections between sending and receiving states, these connections were then reinforced by the social networks that provided information to family back home in the South and assistance navigating local labor and housing markets for subsequent waves of migrants (Boustan, 2016).

Ebbs and flows in the rate of migration through these networks was driven in part by fluctuations in economic conditions throughout the South. Downturns in the agricultural sector, most famously the devastation of the boll weevil, were particularly predictive of increased out migration (Boustan, 2010; Derenoncourt, 2019). In the middle of the Great Migration, over one third of African American males in the South was a farmer or farm laborer. Contrast this with the occupational distribution for African Americans in California at the same time, in which only five percent remained in farming with far more individuals working in skilled trades and the service sector.<sup>2</sup>

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<sup>1</sup> Author's calculations based on the Integrated Public Use Microdata Series (IPUMS) 1% sample of the 1950 Federal Population Census (Ruggles et al., 2021).

<sup>2</sup> Author's calculations based on the IPUMS 1% sample of the 1950 Federal Population Census.

It was not simply job opportunities that led to brighter prospects outside of the South, educational opportunities were significantly better as well (Margo, 2007). Spending on public schools was higher outside of the South; in 1960 California's school expenditures per pupil were 27 percent higher than those in Texas, 14 percent higher than those in Louisiana and almost 90 percent higher than those in Arkansas.<sup>3</sup> These are the three most common birth states for California's African American population at that time. The impact of these differences in overall spending were compounded by underinvestment in black schools in the segregated public school systems of the South (Baker, 2019; Margo, 2007). Clearly the Great Migration led to a substantial increase in educational opportunities, something visible in far higher high school graduation rates for African Americans in the receiving states relative to the South. Returning to the earlier comparison, 85 percent of African American males born in California in the 1940s graduated high school. That figure is 76 percent for Texas, 68 percent for Louisiana and only 67 percent for Arkansas.<sup>4</sup>

The move from the labor markets and schools of the South to those of the North and West did indeed improve economic outcomes. Average incomes for employed black males in California were nearly double those in the South in 1950 and would still be 55 percent higher by 1970.<sup>5</sup> Despite these large gains from migration, the earnings gap between African American and white individuals remained large by the end of the Great Migration. There are a variety of reasons that this was the case. First, the same economic opportunity that drew African Americans the cities of the Northeast, Midwest and West drew white Southerners as well. These white migrants similarly saw their educational and economic outcomes improve (Collins and Wanamaker, 2014 and 2015). Second, upon migration, African Americans still faced substantial discrimination in labor markets. Early waves of migrants often found that high-paying jobs were unavailable to them and faced low-paying unskilled work and unemployment. As the decades progressed discrimination would

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<sup>3</sup> Author's calculations based on Table 186, "Current expenditures per pupil in average daily attendance in public elementary and secondary schools, by state." National Center for Education Statistics Digest of Education Statistics, 2009.

<sup>4</sup> Author's calculations based on the IPUMS 5% sample of the 1980 Federal Population Census.

<sup>5</sup> Author's calculations based on the IPUMS 1% sample of the 1950 Federal Population Census and the 1970 Metro Sample of the 1970 Federal Population Census.

continue to depress the wages of African Americans relative to whites. Recent research estimates that additional arrivals of African American workers in Northern cities had minimal impact on white wages but significant negative impacts on black wages (Boustan, 2009) . Finally, the responses of local residents and governments also served to constrain black economic opportunity.

With the arrival of African Americans, white residents responded by moving to the suburbs and, later, the exurbs of cities. Estimates suggest that in Northern cities, each black arrival led to 2.7 white departures from the city (Boustan, 2010). Through the 40s, 50s and 60s, cities became increasingly segregated with black populations concentrated in city centers surrounded by largely white suburbs (Cutler, Glaeser and Vigdor, 1999).<sup>6</sup> By 1970, despite an overall population share of 11 percent for the African American population of Los Angeles, the typical black individual lived in a census tract that was 72 percent African American.<sup>7</sup>

This choice to move to the suburbs was not one equally available to black residents. Racially restrictive housing covenants, discriminatory zoning ordinances, lending policies including those of the Federal Housing Administration, and more informal forms of discrimination kept black families out of these neighborhoods and the amenities they provided, particularly well-funded schools (Fishback et al., 2021; Shertzer, Twinam and Walsh, 2021). As responses to the Great Migration led to segregation, black households were faced with declining house values, *de facto* segregated schools, and decreased access to jobs and public goods (Akbar, Shertzer and Walsh, 2019; Tabellini, 2020). These factors have all contributed to lower rates of upward economic mobility in recent decades for those cities with the largest inflows of black residents during the Great Migration (Derenoncourt, 2019).

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<sup>6</sup> While much of the literature focuses on this period of increasing segregation, recent work suggests that segregation was rising in the earlier decades of the Great Migration as well (Logan and Parman, 2017).

<sup>7</sup> Author's calculations based on 1970 Federal Population Census figures as reported by Cutler, Glaeser and Vigdor (1999).

These long run economic consequences of the Great Migration bring me to where I see its relevance to discussions of reparations. The economic history of the Great Migration is one of an African American population going to great lengths to further their economic and social positions. It is an example of precisely the types of individual initiative, industriousness and perseverance that underpin notions of the American dream. However, it also reveals the formal and informal constraints that limited the economic opportunity available to African Americans despite that drive. In that respect, the Great Migration provides a cautionary note that regardless of a desire of the recipients to use reparations to make lasting improvements to their lives of those of future generations, any success in doing so will be constrained by the persistence of discrimination in schooling, housing markets, labor markets and beyond. The case of the Great Migration highlights that reparations should be considered in conjunction with a continued effort to eliminate discrimination in all of the various arenas that govern economic outcomes. Without doing this, they will likely disappoint their proponents and provide a strawman for their critics. Reparations cannot correct for centuries of economic disadvantage if the structures that perpetuated that disadvantage well after emancipation continue to exist.

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**Testimony of Bertha Gaffney Gorman**  
**September 24, 2021**  
**Sacramento, California**

Members of the Reparation Task Force, Good afternoon.

My name is Bertha Gaffney Gorman.

I am honored to have the opportunity to tell my family's story to this task force. I hope our story will further your understanding of the legacy of harm caused to my ancestors and their descendants as a result of their enslavement in South Carolina, and especially in the state of Texas.

**Personal History**

My paternal family's enslavement can be traced to the early 1800s in Charleston, South Carolina. My paternal ancestors were enslaved by white Irish immigrants whose family came to New York in 1797. Records show that Peter and Martha Gaffney left New York in 1827 when slavery was officially ended and moved to Charleston South Carolina where slavery was in full force.

Peter and Martha were already rich, having made their fortune in mercantile. In South Carolina, they expanded their ownership of humans, and profited from the labor of the enslaved people who worked their farms; they rented out and sold human stock.

When the Gaffney's decided to relocate, just prior to the beginning of the Civil War, they sold off many of the people they enslaved in preparation for their migration to East Texas. The plan, as I understand it, was that Martha would go ahead by train with furnishings and 20-plus slaves to set up the household and businesses. Peter would stay behind to settle their affairs, which included selling off property the remaining slaves.

Among the slaves taken to Texas by Martha Gaffney were my paternal great-great grandparents Samuel and Sophia, who later took the surname Gaffney. According to my dad, one of Samuel's brothers was sold downriver during the transition but later found his way to Texas and his family.

However, Peter Gaffney was killed in a duel before leaving South Carolina, and Martha Gaffney settled in Texas alone.

Martha settled in a rural area outside Clarksville, a small town in East Texas whose most noted attractions was and still is the hanging tree that stands in the middle of the town square. This is the area where I was born in 1940.

My Paternal great grandparents were born into slavery. Their son, my paternal grandfather, was born in Texas during the de facto slavery that followed the 1865 emancipation Proclamation. My father,

born just 47 years after slavery ended in Texas, and all of his family suffered the degradation of enslavement all of their lives, as did his **children**.

The Emancipation Proclamation and General Order #3 delivered to slaveholders and enslaved people of Texas on June 19, 1865, were precognitive of what was to come:

In the **Proclamation, President Lincoln said to the people declared to be free ...**

“... I recommend to them that, in all cases **when allowed, they labor faithfully for reasonable wages.**

**General Order Number 3 stated:**

“... all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes **that between employer and hired laborer.**”

What did this mean for my family?

Seldom having left the area where they were born, and lived and worked all of their lives, these freed people knew little of opportunities outside their community. So, they continued to work for their enslavers; to live in the same shacks; and to experience the same cruelties and control.

The promise of 40 acres was for most people, unfulfilled. The mule was never a part of the deal. My family was given small plots of land, not 40 acres as were other families in the six villages where formerly enslaved lived outside Clarksville. These communities still exist, inhabited by the descendants of the enslaved there, including members of my own family. In many cases, the land that was given was taken back or lost through various ploys.

According to my dad, my great grandfather believed that the U.S. government was complicit in continuing slavery in Texas. There were trains, teletypes, and certainly mail that could have carried the messages. As to the argument that the soldiers were needed to keep the peace, my grandpa said the enslaved in Texas were told they had to ‘stay in place. When “freed” people walked away, he said, they were brought back as vagrants.

So, even though my ancestors were ‘free’ on paper, they were not in reality.

Like many enslaved people, my great-great grandparents took the name of their former owners at emancipation. Gaffney was and still is a respected name in Texas and in South Carolina which has a town named for the white Gaffney family. In Texas, however, they continued to work the land under the ultimate control of their former owners.

As a child, I remember whispered stories of beatings, castrations, and hangings. I remember my father and other males being hidden in the storm cellar because the Klan was riding; I know of and have relatives born of rapes or relationships with white men. One of the richest landowners in our family was the heir to his white father’s land.

I remember my mom's story about the poor white woman who chose to have a "horse doctor" birth her child rather than the Black midwife who had delivered all of my mother's children, including me. The woman bled to death.

My father only went to the third grade, but he had amazing natural abilities in mechanics, farming and animal husbandry. In 1948, he was moved by the Ablowich family, for whom he had worked for many years, to Commerce to run the Ablowich Farm/Ranch 70 miles east of Clarksville. His boss hired him out to teach classes in Animal Husbandry at the agriculture college, now Texas A&M, Commerce, where he was paid as a field hand.

### **Evidence of Racism and Discrimination.**

a. In my mind, Texas was hateful and cruel. The hanging tree was a constant reminder for Black people who stepped out of place. I know from my parents that an uncle was castrated for allegedly having sex with a white woman. My brother was beaten for staying on the sidewalk when a white woman passed. He was 16 years old.

#### **b. Education.**

Because the land we lived on was considered 'private', the government provided no services like schools for children, health care or cemeteries for our dead, or roads. Former slaves built the one-room school that my parents attended and paid the salary and room and board for a teacher. When the families were unable to pay a teacher, there was no school. I did not attend school regularly until I was almost nine. My mother taught me to read and my timetables.

The school still stands as the community church. The families, including mine, donate annually to care for the cemetery and the graves of our ancestors.

I was born and lived in the segregated south until I was 16. I attended school regularly for the first time when my family moved to Commerce, Texas. I was almost 9 years old. In Commerce, I attended Norris High, a segregated Black school with no electricity, running water or indoor plumbing until 1953 when a new school was built. But the teachers were caring and committed to the education of black kids.

#### **c. Lack of Resources**

##### **1. Poor roads in rural areas.**

To this day the county provides paved roads in Clarksville and up to the communities where the African Americans live. Inside the communities, the roads were dirt until families tarred the paths to ancestral homes, but there are no paved roads within the community. During the freezing that occurred in early 2021, many of my family members were without running water, heat, or electricity for months while whites outside the community were taken care of within weeks. It was a horribly bad time.

*d. Economics*

1. My father was unable to sustain the family above poverty because of the economic negativity bred by the post slave culture. Although my grandparents and parents were hard workers and landowners who grew and raised their own food, the system required them to buy on credit food staples, seeds, farming equipment, clothing and tools from the company store' owned by whites. The debts were due when the crops were harvested, after which there was very little money left and the process of borrowing began again. This form of economics negatively impacted our education as well. As children, we were critical to the harvesting and were unable to attend, if there was teacher, until after the crops were gathered, sometimes as late as November.
2. My father was frustrated at his state and became alcoholic. He was often hired out to do things at much higher rate of pay for which he was paid as field hand.

*e. Racism/Hate Crimes/Threats of Harm*

1. The Hanging a living symbol of racism and hatred in Clarksville. This tree was there when I was a child, and there when I visited in 2018.

As a child I was told by my parents of Black men and women beaten and hanged for vagrancy; Black men accused of looking at white women, or homeless blacks beaten for stealing food. The tree was a constant reminder of what could be done to a black person who talked back or stepped out of line. The tree is still there. So is the hatred.

## 2. Hate Crimes/Threats of Harm

- (a) We lived three miles outside the town of Commerce and often walked to and from school. White kids would follow us in their trucks, hurling insults and rocks. To avoid them, we would walk through the wooded areas rather than along the road where we had better chances of catching a ride. Once my sister stepped into an abandoned well and almost drowned. We kids managed to pull her out.
- (b) My brother was beaten by the cops because he did not move off the sidewalk for a white woman. This incident steeled my father's determination to leave Texas
- (c) A well-known incident, often recited by my father, was the murder of a black man by a white man who ran the black man down in a car because he "dared" to cross the road in front of him. The white man was arrested and brought before a judge released him with no charges because the white man said he thought the black man was a dog.

My father, frustrated and anxious, began to drink. He knew he needed to leave Texas if his children were surviving or have a chance at any kind of education. A relative of the Ablowich family who had moved to New Mexico, convinced my father to move there and work for him.

We moved to New Mexico in 1956. We had no relatives in New Mexico and there were barely 100 Black people in the town, but our opportunities were better. I was able to attend a well-equipped integrated school with First Nation, White, Mexican and a few Black kids. It did not take long for me to

catch up academically. I was an honor student throughout high school. Ours was still a rural working farm life, but my father was paid better, and our living standards were hugely improved. We were 'ok'.

The drawback: all of the teachers were white and racism among them was prevalent. I wrote a story for English and the white male teacher gave me an "F", called me a liar in front of the class and accused me of plagiarism, though he never explained what I was supposed to have plagiarized. My brother punched the teacher and was kicked out of the school. Had we been in Texas, my brother would have been killed or severely beaten by whites for hitting a white man. My parents carried the Texas fear. My brother left New Mexico and for New York. He was 18. I was 17.

Although I was an honor student through high school, the teachers in New Mexico never spoke to me about scholarships or college.

In my senior high school year, an aunt, who lived in Sacramento, came to visit, and informed my parents that I could attend Sacramento City College free. That was my chance to attend college.

### **Discrimination in Travel**

I traveled interstate on the Greyhound bus twice in my life. Once to visit an uncle in Denver and the second time to move to California.

My uncle invited me to come for the summer to babysit his young son. I travelled alone to Denver from Commerce. I had to sit in the back of the bus; I could not sit or eat inside the bus station and had to get food through a window in the back and eat outside. There were Colored Only and White Only, as well No N---- Signs posted, and the toilet was an outside away from the bus station.

### **Discrimination California Style**

After graduating high school in New Mexico in June 1959, I worked in the local cleaners for the summer to earn money for the bus trip to Sacramento. City College was affordable. I only had to pay for books and about \$3 per unit.

Jobs were a different issue: My first job was as babysitting for a young white woman who lived a few blocks from City College and worked for the State. I had worked for her for less than month when she told me the State was testing for clerks and suggested that I take the test. When I returned to work on Monday, she informed me that she had hired someone else, because she was sure that I would pass the test and be hired, leaving her without childcare. I understood.

**It was 1959 and I was not allowed to take the state test.** I was given every imaginable excuse: they weren't giving the test; they had already given the test; they would call me. The bottom line is that I was not allowed to test for a clerk position.

No test and no job. I continued at City College, did odd jobs, including working as a maid for a wealthy white family while attending night classes at the Sacramento Business School that promised a certificate as a Comptometer Operator and a job in six months. I completed the course and was

immediately hired by Pacific Bell, my first office job with a racist and sexist environment in which women had to ask to go the bathroom and the woman supervisor would write one up if she returned with her hair combed differently.

I got a temporary job with the State calculating State Employees contributions to the Social Security system. My supervisor, also a musician, wanted to travel with her husband. She believed I was the best person to replace her as temporary supervisor and wrote a letter to that effect. The director told her in front of me that he could not hire me as a supervisor – I was too young; not enough experience; had not taken the exam and no one would accept me as their supervisor. She argued that I was the most qualified in the pool. The director relented and said I could stay on as supervisor until he found someone else. I said no thanks.

Within two weeks I had tested and was the first Black person hired by Wonder Bakery. The union job paid well but the atmosphere was toxic: I was on my way to work when I heard on the radio that John F. Kennedy has been shot. I was devastated. When I walked into the office, my white supervisor asked, “Did you hear that that nigger lover was killed, and he was shot by a nigger.” And she laughed. She later was killed in an automobile accident on her way to work.

Later, I was given her position which drew the outrage of a white male colleague. After ranting that he deserved the position because I was an unqualified affirmative action hire, he retorted with “you got the job but I’m still free, white and 21.”

My life changed with the EOP program at then-Sacramento State College. At the urging of a friend, I quit my good job at Wonder Bakery and enrolled in Journalism at Sac State. I received an internship with the Sacramento Bee and worked and attended Sac State fulltime. In 1970, I moved to Sweden to study International Affairs at the University of Uppsala.

While in Sweden, I used every opportunity to travel with my sons; overstayed my grant and supported us writing travel articles for the Bee, other newspapers, and magazines, including a South African magazine., about our travels to Europe, Russia, Africa, Scandinavia, Portugal, etc. When I returned to the states in 1972, I was hired as the first fulltime African American Woman staff writer.

### **Housing Discrimination.**

I lived most of my life from 1959 to 1985 in Oak Park, a predominantly black community with a thriving business center until the late 60s. Until the passage of the Rumford Fair Housing Act in 1963, housing discrimination was the norm and legal throughout California. White landlords would not rent apartments to "colored people", and restrictive covenants enabled white property owners to refuse to sell to people of color. As a result, black people resided where they were allowed to.

I left Sacramento in 1985 to take a position with Lockheed Martin Corporation. My family did not leave Oak Park until the 1990s when the neighborhood had become depleted. Oak Park is now a gentrified community and the 33<sup>rd</sup> Street house where I raised my sons is unaffordable to Black people who still live in the area.

Housing and educational discrimination took other negative forms as well. My husband and I purchased our first home in Freeport Manor, once a landing place for black professionals affected by the housing covenants. In addition to the huge backyard, the house was attractive to me because of the elementary school a few blocks away. However, during the busing to fix the problem era, that school was to be closed and my children were to be bussed miles away to an unfamiliar community where they would be unable to participate in sports and other school activities. I joined other parents in protesting the closure. We lost. I moved to a community where my kids could walk to school and home.

How do we solve a 400-year-old problem? In my mind, the solution lies in economic and education equality, and grants to ensure it, regardless of income or status; housing and business ownership, health care, and childcare.

When I arrived in Sweden 50 years ago, I received with my housing allowance a healthcare card for me and my children. Like Swedes and immigrants, I received a monthly allowance to ensure that my children had the things they needed, and there was a free childcare facility in the apartment where I lived.

SUMMARY OF EMAILS TO TASKFORCE  
EMAIL ADDRESS  
THROUGH 09/21/2021 AT 16:58 P.M.

## Quick Email Summary:

10 additional emails were received from  
September 16, 2021 to September 21, 2021

## ReparationsTaskforce

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**From:** Kamilah Moore [REDACTED]  
**Sent:** Thursday, September 16, 2021 4:35 PM  
**To:** Kamilah Moore  
**Cc:** [REDACTED]  
**Subject:** Chairperson of CA Reparations Task Force: Personal Outreach to Community Leaders Regarding Task Force/Upcoming Public Hearing  
**Attachments:** task-force-notice-agenda-092321-092421 (1).pdf

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Dear Esteemed Community Leaders, Supporters and Affiliates:

I hope this email finds you in good spirits!

My name is Kamilah Moore and I am the elected Chairperson of the State of California's *first-in-the-nation* **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**.

The Task Force's scope and powers are predicated on [AB-3121](#), a legislative bill authored by California Secretary of State Shirley Weber and signed into passage by California Governor Gavin Newsom in September 2020:

- The law requires the nine-member Task Force to examine slavery that existed in the United States, discrimination in the public and private sectors against those who were enslaved and their descendants, and the lingering negative effects of the institution of slavery.
- The law requires the Task Force recommend how California will issue a formal apology, how to eliminate discrimination in existing state laws and how to establish new programs, policies or projects to address the group's findings.
- The Task Force will also determine how any potential compensation should be calculated and who would be eligible, as well as additional forms of rehabilitation or restitution.

The Task Force's first substantive hearing, whereby we will discuss the **Transatlantic Slave Trade, the Institution of Slavery, and the Impetus and Implications of the Great Migration(s)**, will occur on Thursday and Friday, September 23-24, 2021. The agenda for the September 23-24 hearing may be found [here](#) (also attached). Confirmed expert witnesses for the September 23-24 hearing, include, but are not limited to:

- Isabel Wilkerson, author of *Caste* (See Oprah's Book Club) and *Warmth of Other Suns*; first Black American woman to win the Pulitzer Prize in Journalism.
- John A. Powell, UC Berkeley Othring & Belonging Institute, and internationally recognized expert in the areas of civil rights, civil liberties, structural racism, housing, poverty, and democracy.
- Douglas Blackmon, American writer; 2009 Pulitzer Prize winner for his book entitled, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*.

Please feel free to forward this information to your constituents! We also welcome public comment, which will occur at the beginning of the hearing (each day). If you'd like for me to share information about the Task Force and our upcoming hearing to your constituents via an upcoming community meeting, panel, or board meeting, please do not hesitate to reach out to me personally, cc'ing (copying) my assistant Vi Stewart-Gordon at [viyvette@msn.com](mailto:viyvette@msn.com).

If your organization would like more information on the Task Force, please visit: <https://oag.ca.gov/ab3121> and/or subscribe to our mailing list for updates at: <https://oag.ca.gov/subscribe>. Also, if your organization wishes to contact other Task Force members, or the CA DOJ, please contact: [ReparationsTaskForce@doj.ca.gov](mailto:ReparationsTaskForce@doj.ca.gov).

Lastly, please see below a few articles that cover the Task Force and our work thus far:

- [California Today: Explaining the Reparations Effort](#) (NY Times).
- [California's slavery reparations task force is convening. Here's what happens next](#) (LA Times).
- [California launches first-in-nation taskforce to study reparations for Black Americans](#) (The Guardian).

Best Regards,  
Kamilah

**AB 3121 TASK FORCE TO STUDY AND DEVELOP REPARATIONS  
PROPOSALS FOR AFRICAN AMERICANS**

**MEETING NOTICE AND AGENDA**

<https://oag.ca.gov/ab3121>

**Meeting Dates and Times:** September 23, 2021, at 9:00 a.m.; and  
September 24, 2021, at 9:00 a.m.

This meeting of the Task Force will occur via Blue Jeans video and telephone conference. The public is encouraged to join the meeting at <https://primetime.bluejeans.com/a2m/live-event/ayssqwxw> or use the “Join Meeting” link below. This will provide access to the meeting video and audio. Please log in 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

[Join Meeting](#)

If you are joining via a mobile device, [download the Blue Jeans App](#) and click here: <https://primetime.bluejeans.com/a2m/live-event/ayssqwxw>. Enter the event ID: **ayssqwxw**. If you are joining by telephone, dial one of the following numbers and enter the PIN followed by # to confirm:

1. +1 (415) 466-7000 (US), PIN 9974464 #
2. +1 (760) 699-0393 (US), PIN 8785201125 #

Recordings of the Task Force meetings will be available at: <https://oag.ca.gov/ab3121/meetings>. Documents that will be reviewed during the meeting will be available in advance of the meeting at: <https://oag.ca.gov/ab3121/meetings>.

**Meeting Agenda**

**September 23, 2021**

1. Chairperson Welcome [9:00 a.m. – 9:05 a.m.]
2. Public Comment [9:05 a.m. – 10:05 a.m.]
3. Action Item: Approval of July Meeting Minutes [10:05 a.m. – 10:10 a.m.]
4. Action Item: Further Consideration of Community Engagement Plan [10:10 a.m. – 10:45 a.m.]
5. Witness Panel #1: National and International Reparations Efforts [10:45 a.m. – 12:00 p.m.]
  - a. Testimony: Kamm Howard
  - b. Testimony: Roy Brooks, J.D.
  - c. Task Force Comments and Questions
6. Lunch [12:00 p.m. – 1:00 p.m.]
7. Witness Panel #2: Slavery as the Foundation of Systemic Racism [1:00 p.m. – 3:00 p.m.]
  - a. Testimony: Daina Ramey Berry, Ph.D.
  - b. Testimony: Stacey Smith, Ph.D.
  - c. Testimony: Jon Burgess

- d. Task Force Comments and Questions
- 8. Break [3:00 p.m. – 3:15 p.m.]
- 9. Information Item: Department of Justice Updates [3:15 p.m. – 4:00 p.m.]

### September 24, 2021

- 10. Chairperson Welcome [9:00 a.m. – 9:05 a.m.]
- 11. Public Comment [9:05 a.m. – 10:05 a.m.]
- 12. Action Item: Consideration of Economics Expert [10:05 a.m. – 10:30 a.m.]
- 13. Action Item: Agenda for October Hearing [10:30 a.m. – 11:00 a.m.]
- 14. Witness Panel #3: The Great Migration [11:00 a.m. – 1:00 p.m.]
  - a. Testimony: Douglas Blackmon
  - b. Testimony: John Parman, Ph.D.
  - c. Testimony: Isabel Wilkerson
  - d. Testimony: Lynn Hudson, Ph.D.
  - e. Testimony: Bertha Gorman
  - f. Task Force Comments and Questions
- 15. Lunch [1:00 p.m. – 2:00 p.m.]
- 16. Witness Panel #4: Political Disenfranchisement [2:00 p.m. – 3:30 p.m.]
  - a. Testimony: John A. Powell, J.D.
  - b. Testimony: Secretary of State Shirley N. Weber, Ph.D.
  - c. Testimony: Dawn Basciano
  - d. Task Force Comments and Questions
- 17. Break [3:30 p.m. – 3:45 p.m.]
- 18. Action Item: Adoption of Findings [3:45 p.m. – 4:30 p.m.]

Public Comment will be managed on a first come first serve basis for one hour. Each speaker will be limited to 3 minutes, after which time your microphone will be turned off. If you wish to participate in Public Comment, please follow the instructions posted at the beginning of the virtual meeting. **In order to make a public comment during this meeting, you must join the meeting through the Blue Jeans desktop application, a browser, or via the BlueJeans phone application. You will not be able to make a Public Comment if you dial-in through your telephone.**

For any questions about the Task Force meeting, please contact Alecia Turner at [ReparationsTaskforce@doj.ca.gov](mailto:ReparationsTaskforce@doj.ca.gov), or (213) 519-0504. If you need information or assistance with accommodation requests, please contact Ms. Turner at least five calendar days before the scheduled meeting.

Please note all times are approximate and are provided for convenience only. All items may be heard in a different order than how they are listed on the agenda on any day of the noticed meeting. The order of business may be changed without notice. Witnesses are subject to change without notice.

352  
DOJ did not respond

## ReparationsTaskforce

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**From:** CJEC Official <cjecofficial@gmail.com>  
**Sent:** Thursday, September 16, 2021 6:26 PM  
**To:** ReparationsTaskforce  
**Cc:** Kamilah Moore  
**Subject:** Black California and the Great Migration Stories Comments to the California Reparations Task Force: CJEC  
**Attachments:** Black California and the Great Migration Stories Comments to the California Reparations Task Force\_CJEC.pptx.pdf

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Greetings,

See attached: Black California and the Great Migration Stories: Comments to the California Reparations Task Force: CJEC. Collected via online surveys August - September 2021, with permission, by CJEC (Coalition for a Just & Equitable California). Submission: 9/16/2021.

Best,  
Chris  
CJEC

# **Black California and the Great Migration(s): Stories & Comments to the California Reparations Task Force**

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**Collected via online surveys August -  
September 2021, with permission, by  
CJEC (Coalition for a Just & Equitable  
California). Submission: 9/16/2021**

## **About Us**

**The Coalition for a Just  
and Equitable California  
(CJEC) is a statewide  
coalition of grassroots  
Community members  
and organizations  
working for Reparations  
and Reporative Justice in  
California.**

**For more info visit  
[CJECofficial.org](http://CJECofficial.org).**



# 354 Black California and the Great Migration: Stories

Are you a Black Californian whose ancestors were enslaved in the U.S?

How/why did you or your family come to California?

The California Reparations Task Force will meet again in September to discuss, among other things, the Great Migrations. Our Coalition for a Just and Equitable California is collecting migration stories from Black Californians to submit to the Task Force ahead of their meeting. Use the form below to share your story.

\* Required

## About Online Comments

\*\*\*All comments will be sent to the California Reparations Task Force before their next meeting, may be read during the meeting, and will be apart of the official record. Please be careful not to share any information you do not want made public, If you have specific questions for the California Reparations Task Force, please email [ReparationsTaskForce@doj.ca.gov](mailto:ReparationsTaskForce@doj.ca.gov) or contact CJEC at [cjecofficial@gmail.com](mailto:cjecofficial@gmail.com) if your question is for our Coalition.

First name \*

Jonathan [REDACTED]

Organization, if any, that you represent

Your migration story

Great Great grandfather was brought to California from New Orleans by a slave trader . He paid for his freedom by working in the gold mines only to be sold here in California a second time . Rufus Burgess who arrived in California in 1849 was my great great grandfather . His son Rufus M Burgess was my Great Grandfather .

First name \*

Darlene

Organization, if any, that you represent

### Your migration story

My grandmother, Floretta Rhodes Butler was born to the parents of Lollie and Nathaniel Rhodes on December 24th 1903 in Covington Louisiana.

I do not know the date, nor the push and pull factors that brought my grandmother to Los Angeles Ca. I do know she had her 1st of 8 children in 1922. My mother, Marredda LaVon Butler is her 5th child born April 4, 1934.

My grandmother, affectionately know as "Mother Dear" passed away surrounded by family on June 10th, 1995 at the age of 92.

I must admit I do not know much of anything about my grandmother's early years. She was always "Mother Dear", the consummate "grandmother-in-chef". I never imagined her as a young child, or a young woman with hopes, dreams, and desires. My cousin, and myself are now committed to discovering who Floretta Rhodes Butler was.

One reason these migration stories like mine, and others are important: as our elders transition, so will the rich history of the American Descendant of Slavery who migrated to California . These stories will be lost to future generations. My grandmother's three surviving daughters either couldn't or wouldn't give any meaningful answers to questions pertaining to their mother.

As we continue the climb toward "Reparative Justice" for the Black American Descendants of Slavery here in California as well as on the National Stage, these migration stories will fuel our children with pride and self-determination to continue the climb.

Thank you for allowing me to share my story. Darlene

First name \*

Woni

Organization, if any, that you represent

wonispotts.com

Your migration story

In 1850, Charles Robert Hamilton, my great grandfather, on my father's side, was born into slavery in Bluffton, South Carolina. In 1861, he was liberated at the tender age of eleven years old by the Union Army. Instead of moving to a nearby town, my great grandfather was utilized as an orderly (most likely as auxiliary) by the Union Army. Charles Robert Hamilton received no compensation or pension for four years of military service. After the Union Army's victory, my great grandfather did not receive equality, civility, or reparations. In 1865 he arrived with the Union Army in Lima, Ohio. In 1868 Charles Robert Hamilton moved to St. Mary's, Ohio, in Auglaize county. In 1873 he married Ellen Bowles. In 1896 their last child was born, my grandmother, Lena/Lenora Marian Hamilton. Against all odds, Marian Hamilton attended Wilberforce University, earned a degree, and married Hardin Allen Spotts, a fellow Wilberforce University graduate. My grandmother became Cincinnati's woman of the year while active in colored women's groups, civic matters, and education. In 1928 my father, Roger Hamilton Spotts, was born, and their family of three was complete. Roger Hamilton Spotts graduated college, served in the Korean War, and moved to Los Angeles, California, to play the saxophone professionally. Roger married Betty Mosley, a Los Angeles resident from Philadelphia. In 1964 their only child was born in Los Angeles, California. I, Woni Spotts, am a descendent of slavery in the United States of America.

First name \*

Dawn

Organization, if any, that you represent

none:

#### Your migration story

My great great grandmother Nancy Gooch (paternal) was brought to California as a slave in 1849, freed in 1850 when California entered statehood. Her grandson Pearley married my great grandmother Evelyn in 1931 at Kyles Temple, one of Sacramento's first black churches. My great great grandparents, mom's side are founding members of that church.

My great great grandparents (maternal) Pleasant and George Brent were enslaved in Missouri, arriving in California in the 1880s. Pleasant's brother Henry served in the Civil war and is buried at Sacramento's Historic Cemetery on Broadway.

My great great grandfather Simon Binion, was a slave out of Georgia. His father John Binion was his enslaver. The Binion family owned some 100 slaves, one of which my great grandfather Simon and a great great aunt Luvenia on my maternal side. Simon's son Anias was hung and his home burned in the 1920s killing his daughter. His wife, my great grandmother Evelyn came to California with her other 3 children in toe in 1927. My grandmother Evelyn, although black passed for white to earn a nursing degree and work for prominent white families in Southern Georgia before coming out to California and marrying Pearley - who was her 2nd husband.

First name \*

HARRIET [REDACTED]

Organization, if any, that you represent

I follow ados American Descendants of Slavery movement.

Your migration story

My mother and her sister, and all of us children came to California late 60's early 70's. They both worked and retired from the veteran's administration hospital. At least 50+ relatives and friends migrated as well from one small town, Berwind WVA. Starting in the late 50's onward. It was done for economic reasons to work for the federal government. Mainly to work in the hospital and post office. I worked for both. As well as other Descendants from that first migration. Our numbers grew initially. Now all that's changed. Gainful employment isn't once what it was, for #ados.

First name \*

Marche

Organization, if any, that you represent

Your migration story

I currently live in Georgia, but was born and raised in San Jose, California. My maternal grandparents moved to California from Bastrop County, Texas because they heard that they were hiring black men for labor work. My grandparents came from a family of sharecroppers. Where they lived in Bastrop County was where former slaves migrated to after slavery. My grandfather found work as a laborer in Redwood City, California, he was part of The Carpenters Union and moved his family to San Jose, California, where he purchased a house.

First name \*

Zerita [REDACTED]

Organization, if any, that you represent

Black & Asian Coalition

Your migration story

My great aunts and uncles migrated from New Iberia Louisiana, in the late 40s and early 50s. The last of which passed away at 100 years old, my mother and her siblings also migrated in the 60s.

First name \*

Lawrence

Organization, if any, that you represent

ADOS

Your migration story

My father and my mother's brother were friends in the US NAVY stationed in San Diego. My mother came later to live with her brother and met my father. There was not a lot of opportunity in Plainfield, New Jersey, nor Roanoke, Virginia for black men to have success, so the Navy and the Korean War was an opportunity.

First name \*

Daniel

Organization, if any, that you represent

Your migration story

I'm a Black American born and raised in California. My late father is from Little Rock, Arkansas and moved to Los Angeles. My mother was born in California but her father was from Connecticut. I'm unsure of exact dates or motives for moving.

First name \*

Paula [REDACTED]

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Organization, if any, that you represent

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Your migration story

My great grandfather john scott escaped slavery when his father went to live with the indians. They rode horseback from oklahoma

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First name \*

Kevin

Organization, if any, that you represent

Reparations Over Everything

Your migration story

The War On Drugs And Mass incarceration is My Story Born in Oakland California

First name \*

Cedric [REDACTED]

Organization, if any, that you represent

Your migration story

Father was killed protesting for civil rights in Arkansas when I was 8 years old. I came to CA by joining the military.

First name \*

David

Organization, if any, that you represent

None

Your migration story

My mother and father who were born in New York and New Jersey in the early 1930s moved to Los Angeles California in 1967 for job opportunities and housing opportunities. They left families and friends behind to take part in the California dream which was good for a short amount of time. By the time of their death in 1991 and 1995 opportunities regarding teachers as my mother was and Union Representatives as my father was were drying up quickly. I saw an entire generation wiped out because of the California crack cocaine war that was inflicted on American descendants of slavery.

368  
DOJ did not respond

## ReparationsTaskforce

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**From:** Kamilah Moore [REDACTED]  
**Sent:** Friday, September 17, 2021 3:57 PM  
**To:** CJEC Official  
**Cc:** ReparationsTaskforce  
**Subject:** Re: Black California and the Great Migration Stories Comments to the California Reparations Task Force: CJEC

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi Chris,

Confirming receipt. Thank you for sharing!

Best,  
Kamilah

On Thu, Sep 16, 2021 at 6:26 PM CJEC Official <[cjecofficial@gmail.com](mailto:cjecofficial@gmail.com)> wrote:

Greetings,

See attached: Black California and the Great Migration Stories: Comments to the California Reparations Task Force: CJEC. Collected via online surveys August - September 2021, with permission, by CJEC (Coalition for a Just & Equitable California). Submission: 9/16/2021.

Best,  
Chris  
CJEC

369  
DOJ did not respond

## ReparationsTaskforce

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**From:** CA Reparations Task Force Public Newsletter <ca-reparations-task-force-public-newsletter+noreply@googlegroups.com>  
**Sent:** Sunday, September 19, 2021 3:53 PM  
**To:** ReparationsTaskforce  
**Subject:** You have been added to CA Reparations Task Force Public Newsletter

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

## CA Reparations Task Force Public Newsletter

Google Groups 

Hi ReparationsTaskforce@doj.ca.gov,

 added you to the [CA Reparations Task Force Public Newsletter](#) group.

### About this group

CA Reparations Task Force Public Newsletter

Google Groups allows you to create and participate in online forums and email-based groups with a rich community experience. You can also use your Group to share documents, pictures, calendars, invitations, and other resources. [Learn more](#).

If you do not wish to be a member of this group you can send an email to [ca-reparations-task-force-public-newsletter+unsubscribe@googlegroups.com](mailto:ca-reparations-task-force-public-newsletter+unsubscribe@googlegroups.com) or follow this [unsubscribe](#) link. If you believe this group may contain spam, you can also [report the group for abuse](#). For additional information see our [help center](#).

[View this group](#)

If you do not wish to be added to Google Groups in the future you can opt out [here](#).

[Visit the help center](#).

DOJ did not respond<sup>370</sup>

## ReparationsTaskforce

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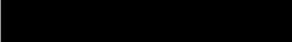
**From:** CA Reparations Task Force Public Community Group <ca-reparations-task-force-public-community-group+noreply@googlegroups.com>  
**Sent:** Sunday, September 19, 2021 3:53 PM  
**To:** ReparationsTaskforce  
**Subject:** You have been added to CA Reparations Task Force Public Community Group  
**Categories:** PDF'd

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

### CA Reparations Task Force Public Community Group

Google Groups 

Hi ReparationsTaskforce@doj.ca.gov,

 added you to the [CA Reparations Task Force Public Community Group](#) group.

#### About this group

Welcome to our public community group for all of our CA Reparations Task Force news and information!

Google Groups allows you to create and participate in online forums and email-based groups with a rich community experience. You can also use your Group to share documents, pictures, calendars, invitations, and other resources. [Learn more](#).

If you do not wish to be a member of this group you can send an email to [ca-reparations-task-force-public-community-group+unsubscribe@googlegroups.com](mailto:ca-reparations-task-force-public-community-group+unsubscribe@googlegroups.com) or follow this [unsubscribe](#) link. If you believe this group may contain spam, you can also [report the group for abuse](#). For additional information see our [help center](#).

[View this group](#)

If you do not wish to be added to Google Groups in the future you can opt out [here](#).

[Visit the help center](#).

371  
DOJ did not respond

## ReparationsTaskforce

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**From:** Nzinga Griffin [REDACTED]  
**Sent:** Sunday, Septem  
**To:** ReparationsTaskforce  
**Cc:** Daniel Davenport  
**Subject:** Think Fair proposal hopes to be 1st public proposal considered by you  
**Attachments:** California TFAP.docx

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Greetings California Reparations Task Force,

Thank you for the hard work you are doing, ensuring a better and more equitable California for Black American descendants of chattel slavery.

Please review the attached letter sent on behalf of Mr. Davenport of [DavenportLawLobbying.com](http://DavenportLawLobbying.com)

Warm regards,  
Nzinga Griffin  
California Resident  
Reparationist

THIS IS AN OFFICIAL DOCUMENT OF DAVENPORTLAWLOBBYING.COM  
(Please confirm receipt)

\*\*\*\*\*

September 17, 2021

Mr. Daniel Davenport  
1629 K Street NW  
Suite 300  
Washington DC 20006

Good morning Public and Elected Official Leaders:

1. Thank you for your service to our California. This is to notify you that Senator Bradford’s office is already being lobbied to sponsor the proposal illustrated on the link. We are still waiting on notification of whether he will reject or accept our offer.
2. In addition, this week I called Senator Bradford’s office to schedule a three way call between Senator Bradford, Kevin Lane of [ReparationsOverEverything.com](http://ReparationsOverEverything.com), and myself. I was told by office staff the office staff would see if Senator Bradford could call me back during his lunch break. He did not call.
3. Please know this, if American Descendants of Slavery are to regain trust in the California State assembly we need officials who respond to us. Did you know? Senator Bradford was invited to an American Descendants of Slavery March in Sacramento. He did not show up, and no one on his staff supported.
4. We now send this publicly to you all, and we will release this letter publicly. Here is the link for the public’s first proposal submission to your task force. To clarify, this is a Reparations proposal submission cover letter, the proposal is at this link.

<https://www.reparationstfap.com/californiareparationstaskforceproposal>

5. Please begin using resources to survey descendants of slavery in California about whether they support or oppose this settlement proposal. This has been developed by members of the [ReparationsOverEverything.com](http://ReparationsOverEverything.com). Please ask Senator Bradford to ensure your task force has all monetary resources necessary to ensure you can “wake the people up” and let them know about this proposal. We the People need to know what options are available to Governor Newsom and the state assembly. This proposal presents an option. Bookmark 1 is currently live for proposal support or questions contact: [DavenportLawLobbying.com](http://DavenportLawLobbying.com), 1-833-511-3311.

Very Respectfully, Mr. Davenport

\*\*\*\*\*

373  
DOJ did not respond

## ReparationsTaskforce

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**From:** Emend The Mass Media Group <etmmediagroup@gmail.com>  
**Sent:** Monday, September 20, 2021 4:00 PM  
**To:** ReparationsTaskforce  
**Cc:** kamilahvm@gmail.com; Chris L  
**Subject:** ETM MEDIA GROUP - Community Testimony and Comments Submission for CA Reparations Task Force

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Dear Department of Justice Representatives,

Sacramento, CA-based digital advocacy agency EMEND THE MASS Media Group, has been hard at work gathering testimony excerpts from our community to share during the upcoming CA Reparations Task Force meeting on Sept. 23rd and 24<sup>th</sup>. Please confirm that the provided testimony clips will be provided to task force members for review.

We are also hopeful that these short testimony clips will be played during the testimony section of the CA Reparations Task Force meetings this week. Many of our older community members are not able to provide live testimony during the task force meetings due to technology limitations and complexities associated with using the Blue Jeans App.

We are submitting 6 individual testimony clips from community members, on topics relevant to the reparations for African Americans narrative.

[Marva Nesbitt Migration Testimony](#) | [Gerri Ransom Migration Testimony](#)

[Tommie Whitlow Migration Testimony](#) | [Faye Wilson Kennedy Housing Testimony](#)

[Charles R Jackson Veteran Testimony](#) | [Howard Rydolph Slave Contributions Testimony](#)

Again, please confirm that this testimony will be played, this week, during the 2-day CA Reparations Task Force meeting.

Additionally, as a public service, ETM MEDIA GROUP live streams the CA Reparations meetings on our YouTube channel. Live streaming the task force meetings on YouTube allows the viewing audience to post comments to our channel during the proceedings. Since the DOJ-hosted meetings no longer provide a space for meeting viewers type make public comments, we provide a platform that allows the audience to engage. We are providing the task force with the written public comments from the July 9<sup>th</sup> meeting.

Please [share the public comments made at the July 9<sup>th</sup> meeting](#) with the CA Reparations Task Force members.

We will eagerly await a response from DOJ representatives.

Thank you,

Kim Mims  
ETM MEDIA Group  
916-803-7442

[www.youtube.com/c/ETMMediaGroup](http://www.youtube.com/c/ETMMediaGroup)

374  
DOJ did not respond

## ReparationsTaskforce

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**From:** Simon Vue <svue@cccbha.org>  
**Sent:** Tuesday, September 21, 2021 10:07 AM  
**To:** ReparationsTaskforce  
**Subject:** RE: Letter to Reparations Task Force from CBHA  
**Attachments:** CBHA Letter to Reparations Taskforce\_8.18.2021.pdf

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Good morning,

I am following up to see if you have any questions regarding our letter. We look forward to this week's meeting.

Best,  
Simon Vue

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**From:** Simon Vue  
**Sent:** Wednesday, August 18, 2021 3:43 PM  
**To:** 'ReparationsTaskForce@doj.ca.gov' <ReparationsTaskForce@doj.ca.gov>  
**Cc:** Robb Layne <rlayne@cccbha.org>; Le Ondra Clark Harvey <Lclarkharvey@cccbha.org>  
**Subject:** Letter to Reparations Task Force from CBHA

Hello,

Please accept CBHA's letter to the AB 3121: Reparations Task Force (attached). Please let me know if you have any questions about any of the content of the letter.

Sincerely,

Simon Vue (He, Him, His)  
Policy and Legislative Affairs Coordinator  
California Council of Community Behavioral Health Agencies (CBHA)  
455 Capitol Mall, Suite 315, Sacramento, CA 95814  
916-557-1166 \*300 | [svue@cccbha.org](mailto:svue@cccbha.org)



California Council of Community  
Behavioral Health Agencies



CBHA manages the [California Access Coalition](#)



## CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH AGENCIES

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CHIEF EXECUTIVE OFFICER  
Le Ondra Clark Harvey, Ph.D.

(Sent via electronic mail- [ReparationsTaskForce@doj.ca.gov](mailto:ReparationsTaskForce@doj.ca.gov))

August 18, 2021

Reparations Task Force Members  
Attorney General's Office  
California Department of Justice

Dear Reparations Task Force Members:

The California Council of Community Behavioral Health Agencies (CBHA) would like to take this opportunity to welcome and congratulate each of you for your appointment as members of the Reparations Task Force, spearheaded by then-Assemblymember Shirley Weber. Your leadership and expertise will be vital in this first-in-the-nation effort to examine the institution of slavery and its present-day impact on the lives of Black Americans.

On behalf of our Board of Directors and members, we write to offer our support and assistance where it may be useful to the Task Force's efforts. CBHA is a statewide association of mental health and substance use disorder non-profit community agencies that provide behavioral health services to over 750,000 Californians. We believe that Californians deserve a comprehensive, community-based behavioral health system that is adequately funded. We support the integration of behavioral health, physical health, housing, education and vocational rehabilitation services for children, youth, adults, and older adults.

CBHA recognizes the impact of health disparities on the communities our member agencies serve. In particular, many racial and ethnically diverse communities continue to suffer from behavioral health conditions at disproportionate rates when compared to their white counterparts. According to the National Institute on Minority Health and Health Disparities (NIMHD), [Black Americans are 20 percent more likely to experience serious psychological distress](#) than the general population. In addition, Black adults are more likely to report feelings of sadness and hopelessness than white adults, but [less than 9 percent of Black adults receive mental health services](#), compared to 18.6 percent of white adults. For communities of color in the United States, particularly the Black community, the psychological impact of discrimination, racism, and historical trauma is severe, which exacerbates stigma that in turn impacts their willingness to participate in treatment.

CBHA is exploring ways to address these inequalities through its innovative projects spearheaded by its Race and Social Equity Task Force (RSET). We continue to advocate with our partners in behavioral health to address the racial pandemic in our state and country. In 2020, a coalition of organizations, including CBHA, led by our colleagues at California Pan-Ethnic Health Network (CPEHN), [sent a letter](#) to Governor Newsom urging him to immediately issue an Executive Order declaring racism to be a public health crisis. These important state-level efforts have inspired several city councils, county boards of supervisors, and other local governing bodies across California to adopt resolutions declaring racism a public health crisis. As CBHA and the California Alliance of Child & Family Services (CA Alliance) represent agencies that provide service to these jurisdictions, we joined to [release a](#)



[statement](#) encouraging all counties to join in adopting similar declarations. We were proud to see that our county partners have [joined the movement](#).

CBHA stands ready to support your Task Force and provide any assistance and information to further the mission and goals of the Task Force. We look forward to working with you in this critical endeavor. If you have any questions, please do not hesitate to contact me at 916-557-1166 \*400 or [lclarkharvey@cccbha.org](mailto:lclarkharvey@cccbha.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Le Ondra Clark Harvey". The signature is fluid and cursive.

Le Ondra Clark Harvey, Ph.D.  
Chief Executive Officer

A handwritten signature in black ink, appearing to read "Robb Layne". The signature is fluid and cursive.

Robb Layne  
Senior Advocate, Policy and Legislative Affairs

DOJ did not respond<sup>377</sup>

## ReparationsTaskforce

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**From:** q.tiffany@gmail.com on behalf of NAASD <naasdorg@gmail.com>  
**Sent:** Tuesday, September 21, 2021 12:26 PM  
**To:** ReparationsTaskforce  
**Cc:** 

**Subject:** Request for the California Reparations Task Force  
**Attachments:** NAASD California Reparations Task Force (2).pdf

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Dear AB3121 Task Force Members,

Please find attached to this email, our letter to you with a formal request and below the email, per the letter, a link to the R.E.P.A.I.R Act from the National Assembly of American Slavery Descendants (NAASD). Thank you for your consideration.

Link to R.E.P.A.I.R Act: <http://tiny.cc/repairpriorities>

Sincerely,  
NAASD  
[www.naasd.org](http://www.naasd.org)



September 21, 2021

California AB3121 Task Force  
 C/O California Department of Justice  
 4949 Broadway  
 Sacramento, CA 95820

SUBJECT: Requesting Task Force Support for Biden Executive Order

Via email to: [reparationstaskforce@doj.ca.gov](mailto:reparationstaskforce@doj.ca.gov)

Esteemed Task Force Members:

The **National Assembly of American Slavery Descendants (NAASD)** is a grassroots organization of member chapters across the US that have mobilized for Reparations at the state and Federal level for several years. NAASD leaders, in tandem with leaders from Coalition for a Just and Equitable California (CJEC), helped develop language amendments that currently appear in AB3121 legislation.

NAASD recently released Priorities for Presidential Action, the initial phase of our comprehensive policy platform, the R.E.P.A.I.R Act. Priorities for Presidential Action consists of 12 legislative memos detailing important and actionable measures to advance reparative justice for the Black descendant community in the United States. These are measures that can be enacted via Presidential Executive Order immediately.

Among these Executive measures is formation of the **John Conyers Reparations Commission**, to honor the legacy of Congressman Conyers who authored and introduced Reparations legislation HR40 in 1989 and mirror efforts of the California Reparations Task Force at the Federal level.

Presently HR40 is awaiting a floor vote in the House of Representatives. However, even if the bill exits the House, it faces an uncertain road ahead with only a slight Democratic majority in the Senate and filibuster posing ever present danger.

To build on the important precedent of AB3121, ***NAASD requests the California Reparations Task Force issue a letter to President Biden supporting formation of the John Conyers Reparations Commission by Executive Order.*** We believe this to be fully aligned with the Task Force's charge to recommend appropriate remedies of compensation, rehabilitation, and restitution for African Americans who are descendants of persons enslaved in the United States.

As California goes, so goes the nation; and, as the 1st Reparations Task Force convened in American history, you are paving way for the Federal Reparations effort. Using your influence to ask President Biden



to sign this Executive Order can assist in making Reparations for Black Americans who descend from US Slavery a reality.

It is time for this administration to deliver on its campaign promise to “have the back” of Black Americans who played a vital role in the election of President Biden and Vice President Harris. Establishing a National Commission to study and develop proposals for Reparations is a substantive first step.

For your review, we have attached *Priorities for Presidential Action* which includes the proposed Executive Order. We are available and happy to answer any questions you may have.

Thank you for your consideration,

The National Assembly of American Slavery Descendants (NAASD)

380  
DOJ did not respond

## ReparationsTaskforce

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**From:** Melissa Weikel  
**Sent:** Tuesday, September 21, 2021 4:52 PM  
**To:** ReparationsTaskforce  
**Cc:** Michael L. Newman  
**Subject:** Correspondence Addressed to AB 3121 State Reparations Task Force From Alameda County Board of Supervisors  
**Attachments:** noreply\_20210921\_155927.pdf; noreply\_20210921\_155916.pdf

Forwarding for handling as you deem appropriate. Thank you.



# Board of Supervisors

Nathan A. Miley  
Supervisor, District 4

Oakland Office  
1221 Oak Street, Suite 536  
Oakland, CA 94612  
510-272-6694/510-465-7628 Facsimile

Eden Area District Office  
20980 Redwood Road, Suite 250  
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Pleasanton District Office  
4501 Pleasanton Avenue, 2<sup>nd</sup> Floor  
Pleasanton, CA 94566  
925-803-7959

[district4@acgov.org](mailto:district4@acgov.org)

September 16, 2021

State of California Department of Justice  
Office of the Attorney General  
AB 3121 State Reparatons Task Force  
C/O Donald K. Tamaki  
1300 I St, Sacramento, CA 95814

RE: AB-3121 Reparatons State Taskforce

Dear Mr. Tamaki:

I would like to express my appreciation for your participation and valuable input in my recent reparations meeting with county staff. I value your willingness to support the Alameda County Reparatons Action Plan.

As we move forward, we will keep you updated on progress made on the development of a Commission and action plan. I look forward to your ongoing participation as we explore potential partnership opportunities with you and other members of the AB 3121 State Reparatons Task Force.

Again, thank you for taking the time to speak with members of the county staff and I. Please do not hesitate to contact Caleb Matthews from my office at (510) 272-6694 if I can be of any assistance.

Sincerely,

NATE MILEY  
Vice President  
Alameda County Board of Supervisors

Cc: All Members of the Board of Supervisors  
Susan S. Muranishi, County Administrator



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September 16, 2021

State of California Department of Justice  
Office of the Attorney General  
AB 3121 State Reparations Task Force  
C/O Dr. Jovan Scott-Lewis  
1300 I St, Sacramento, CA 95814

RE: AB-3121 Reparations State Taskforce

Dear Dr. Scott-Lewis:

I would like to express my appreciation for your participation and valuable input in my recent reparations meeting with county staff. I value your willingness to support the Alameda County Reparations Action Plan.

As we move forward, we will keep you updated on progress made on the development of a Commission and action plan. I look forward to your ongoing participation as we explore potential partnership opportunities with you and other members of the AB 3121 State Reparations Task Force.

Again, thank you for taking the time to speak with members of the county staff and I. Please do not hesitate to contact Caleb Matthews from my office at (510) 272-6694 if I can be of any assistance.

Sincerely,

NATE MILEY  
Vice President  
Alameda County Board of Supervisors

Cc: All Members of the Board of Supervisors  
Susan S. Muranishi, County Administrator