

# H.R. 40 AND THE PATH TO RESTORATIVE JUSTICE

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON THE  
CONSTITUTION, CIVIL RIGHTS, AND CIVIL  
LIBERTIES  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SIXTEENTH CONGRESS  
FIRST SESSION

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JUNE 19, 2019  
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# CONTENTS

JUNE 19, 2019

## OPENING STATEMENTS

	Page
The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights, and Civil Liberties .....	1
The Honorable Mike Johnson, Ranking Member, Subcommittee on the Constitution, Civil Rights, and Civil Liberties .....	4
The Honorable Jerrold Nadler, Chairman, Committee on the Judiciary .....	7
The Honorable Sheila Jackson Lee, Subcommittee on the Constitution, Civil Rights, and Civil Liberties .....	8

## WITNESSES

Cory Booker, United States Senator	
Oral Testimony .....	21
Prepared Testimony .....	24
Ta-Nehisi Coates, Distinguished Writer in Residence, Arthur L. Carter Journalism Institute of New York University	
Oral Testimony .....	28
Prepared Testimony .....	31
Danny Glover, Actor and Activist	
Oral Testimony .....	35
Prepared Testimony .....	37
Katrina Browne, Documentarian, Traces of the Trade	
Oral Testimony .....	40
Prepared Testimony .....	42
Coleman Hughes, Writer, Quillette	
Oral Testimony .....	49
Prepared Testimony .....	51
Burgess Owens, Speaker and Writer	
Oral Testimony .....	53
Prepared Testimony .....	55
The Right Reverend Eugene Taylor Sutton, Episcopal Bishop of Maryland	
Oral Testimony .....	58
Prepared Testimony .....	60
Dr. Julianne Malveaux, Economist and Political Commentator	
Oral Testimony .....	75
Prepared Testimony .....	78
Professor Eric J. Miller, Loyola Law School, Loyola Marymount University	
Oral Testimony .....	81
Prepared Testimony .....	83

## LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

Item for the record submitted by the Honorable Sheila Jackson Lee, Committee on the Judiciary .....	11
Item for the record submitted by the Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, Committee on the Judiciary .....	16
Item for the record submitted by the Honorable Louie Gohmert, Committee on the Judiciary .....	119

IV

Page

APPENDIX

Items for the record submitted by The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights, and Civil Liberties .....	141
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## **H.R. 40 AND THE PATH TO RESTORATIVE JUSTICE**

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**WEDNESDAY, JUNE 19, 2019**

HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS,  
AND CIVIL LIBERTIES  
COMMITTEE ON THE JUDICIARY  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 2141, Rayburn House Office Building, Hon. Steve Cohen [chairman of the subcommittee] presiding.

Present: Representatives Cohen, Nadler, Raskin, Jackson Lee, Swalwell, Scanlon, Dean, Garcia, Escobar, Johnson, Gohmert, Jordan, Reschenthaler, and Cline.

Staff Present: David Greengrass, Senior Counsel; John Doty, Senior Advisor; Lisette Morton, Director, Policy, Planning, and Member Services; Madeline Strasser, Chief Clerk; Moh Sharma, Member Services and Outreach Advisor; Susan Jensen, Parliamentarian/Senior Counsel; Charlie Gayle, Oversight Counsel; James Park, Chief Counsel; Keenan Keller, Senior Counsel; Will Emmons, Professional Staff Member; Paul Taylor, Minority Counsel; and Andrea Woodard, Minority Professional Staff Member.

Mr. COHEN. The Committee on the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties will come to order. I thank the officers for their help in clearing—getting the door shut and getting folks in. Thank you so much.

Without objection, the chair is authorized to declare a recess of the subcommittee at any time.

I welcome everyone to today's hearing on H.R. 40 and the path to restorative justice. I will now recognize myself for an opening statement.

Today is Juneteenth, a day that commemorates the announcement of the abolition of slavery in Texas and more generally throughout the former confederacy on June 19, 1865. The news of the Emancipation Proclamation did not reach Texas for 2 years. And so it was not until 1865 that all enslaved people knew they were free, despite President Lincoln's emancipation announcement. Slavery was a crime against humanity, one which whose impacts we as a society continue to grapple with today. This year also marks the 400th anniversary of the first African slaves being brought to America.

Slavery was our Nation's original sin. Our Constitution protected it, embodying it in various compromises that gave disproportionate power to slave States. For example, the three-fifths clause counted a slave as three-fifths of a person for population counts. Of course, they weren't considered persons but property. But that, in turn, gave disproportionate representation to slave States in the House of Representatives.

The Constitution also created the Electoral College, a system of electing the President of the United States that gave slave States another avenue to exercise disproportionate influence over national affairs. It is only fitting, then, that we should hold a hearing today on H.R. 40, the Commission to Study and Develop Reparation Proposals for African-Americans Act. My colleague, Representative Sheila Jackson Lee, who is in another hearing right—no, she is here with us. Thank you—a member of the subcommittee is the current lead sponsor of this legislation, and I am proud to be a cosponsor with her along with full committee chair Jerry Nadler, also a long time cosponsor of this bill.

But the greatest credit for H.R. 40 belongs to two individuals. First and foremost, Mr. John Conyers. Mr. Conyers is a former colleague, a former chairman of the House Judiciary Committee, a great American, and a great leader, one of my mentors, one of the reasons that I have introduced this resolution with him since 2007. He introduced it first 30 years ago. The he reintroduced it every Congress thereafter until his retirement.

The second individual most responsible for H.R. 40 is, sadly, but in reality, John Wilkes Booth. His assassination of President Abraham Lincoln led to Andrew Johnson becoming President. And President Johnson effectively rescinded the promise made by General William T. Sherman to former slaves that they would each be guaranteed 40 acres of land to make a living as a free person. A promise sometimes colloquially referred to as 40 acres and a mule. President Lincoln would have carried that out and had plans to do it. But because of that dastardly day and deed of April 12, 1865, it didn't occur. It was April 14, maybe.

Anyway, H.R. 40 would create a commission to study the history of slavery in America, the role of the Federal and State governments in supporting slavery and racial discrimination. Other forms of discrimination against the descendants of slaves and the lingering consequences of slavery and Jim Crow on African Americans. The commission would also make recommendations as to appropriate ways to educate the American public about its findings and appropriate remedies in light of its findings.

An honest reckoning with the Federal Government's role in protecting the institution of slavery has been a leading priority in my congressional career. In 2007, my freshman year, less than 2 months into that term, introduced H. Res. 194, an apology by the House of Representatives for its role in perpetuating both slavery and its noxious offspring, Jim Crow. The House ultimately passed this resolution by voice vote. And I, once again, thank Chairman Conyers for getting it a vote and getting it to the American people.

As I noted in my resolution then, it was not just slavery itself that was wrong but also, quote, "the visceral racism against persons of African descent upon which," unquote, American slavery de-

pended, a racism that went on to become entrenched in the Nation's social fabric, an evil that we must continue to confront today.

Can we get that door closed?

Thank you, sir.

My resolution emphasized that, while slavery was our Nation's original sin, the underlying sin of anti-Black racism did not end with the Civil War and the 13th Amendment. And Congress' inaction and acquiescence in the face of such racism was a big reason why. Racism became only further entrenched after slavery's end as reflected in societal attitudes and in Jim Crow laws, a system of State racial segregation laws that created separate and unequal societies for Whites and African Americans, one that was enforced through both official means and through lynchings, violence, intimidation, and disenfranchisement.

And not until 100 years after the end of slavery did Congress, under pressure from Dr. Martin Luther King, John Lewis, and other great civil rights leaders in the civil rights movement finally carry out its duty to end Jim Crow by passing the Civil Rights Act of 1964; the Voting Rights Act of 1965, that still exists to some extent; and other core civil rights statutes that are fulfilling the Constitution's guarantees of equal protection for all.

Today, our Nation continues to struggle with the legacy of the anti-Black racism that undergirded slavery and Jim Crow. We see this in statistics that paint a bleak picture. According to the Census Bureau, 21.2 percent of African Americans lived in poverty in 2017 compared to 8.7 percent of non-Hispanic Whites who live in poverty. That is over two times as many. The Census Bureau also reported in 2015 that the net worth of African American households was only about \$13,000, which was less than 10 percent, less than 10 percent of the nearly \$140,000 net worth of non-Hispanic White households.

Limited access to wealth, building resources and opportunities have led to this dark disparity. For instance, African Americans continue to face discrimination in the workplace. They have limited access to educational opportunities. According to the National Education Association, the high school education rate, graduation rate for African Americans was 67 percent compared to the nationwide average of 81 percent. African Americans also continue to face racial segregation in housing and discrimination in the availability of quality healthcare service and most other major facets of life.

Enacting H.R. 40 would be an important step in finding effective long-term solutions to these problems once they can trace their origins to our Nation's shameful history of slavery and anti-Black racism.

As the distinguished professor Charles Ogletree of Harvard Law School once noted, the concept of reparations does not necessarily mean payments to individuals but rather a focus on the poorest of the poor, including efforts, quote, "to address comprehensively the problems of those who have not substantially benefited from integration or affirmative action," unquote.

I hope our hearing today can lead to fruitful conversations with the aim of achieving that goal. I thank our witnesses for being here today and look forward to their testimony.

It is now my pleasure to recognize the ranking member of the subcommittee, the gentleman from Louisiana, Mr. Johnson, for his opening statement.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Let me start today by saying I maintain the utmost respect for my colleagues on the other side, and I know their beliefs on this issue are sincerely held.

I want to thank all our witnesses for being here today, for your good-faith testimony, and your scholarship. We have all read through it in detail and made many notes. I will use my brief time here to just focus on an overview of what H.R. 40 is and why we are here.

What we are going to discuss here today centers upon a regrettable and shameful portion of American history. Slavery in America and elsewhere was a horrific injustice, the perpetuation of which was antithetically opposed to the founding ideals expressed in our Declaration of Independence and the Constitution, including its Bill of Rights. Of course, the evil institution of slavery was legally abolished over 150 years ago on December 6, 1865, with the ratification of the 13th Amendment following the end of the tragic Civil War.

The bill today, H.R. 40, would, quote, establish a commission to study and develop reparation proposals for African Americans. There are serious questions about this from all sides of the political spectrum, and they are honest and sincere questions that we want to address.

But putting aside the injustice of monetary reparations from current taxpayers for the sins of a small subset of Americans from many generations ago—let me finish—the fair distribution of reparations would be nearly impossible once one considers the complexity of the American struggle to abolish slavery.

Just consider this. Okay? There are tens of millions of today's non-African Americans who are descended from people who arrived in the country, of course, after slavery ended, and, therefore, they can't be held responsible for its legacy. More tens of millions are descended from people in both the North and South who didn't own slaves or who were descended from White people who fought in the Civil War on the Union side. Indeed, only a small percentage of the total American population were slave owners.

For the aforementioned reasons and many others, such an approach has been widely unpopular, at least in our recent history. In the 1970s, civil rights organizations openly rejected the idea of reparations, which the NAACP's assistant director himself called, quote, "an illogical diversionary and paltry way out for guilt-ridden Whites," unquote. Bayard Rustin, who organized the 1963 march on Washington and was one of Martin Luther King, Jr.'s closest advisers described the concept as, quote, "a ridiculous idea," unquote. Barack Obama opposed reparations when he ran for President in 2008, and Hillary Clinton and Bernie Sanders did as well 8 years later.

In addition to all this, here in the Judiciary Committee, we have an obligation to acknowledge that any monetary reparations that might be recommended by the commission created by H.R. 40 would almost certainly be unconstitutional on their face. The rea-



son for that—listen. Wait a minute. The reason for that is a legal question. See, the legal question is the Federal Government can't constitutionally provide compensation today to a specific racial group because other members of that group, maybe several generations ago, were discriminated against and treated inhumanely. According to the U.S. Supreme Court, they would refer to that as an unconstitutional racial preference. See, the holding of the 1995 case, *Richmond v. J.A. Croson Co.* is that racial set-asides and other entitlements are only constitutionally permissible to remedy the present effects of the government's own widespread and recent discrimination. And the Federal Government is not allowed to provide race-based remedies that are, quote, ageless in their reaching of the past and timeless in their ability to affect the future, unquote.

Now, listen. I get it. I have read the scholarship. I know that some proponents of this legislation believe that the very discussion of reparations itself would be cathartic for our Nation. But we have to ask: If discussions can result in justice today, they certainly probably won't provide consensus. Instead, many people of good conscious believe they will distract from the many persistent causes of current racial disparities. They certainly exist. The despicable racism of America's past is part of that, as Mr. Coates, for example, has documented in a very compelling way. But so are other social and culture dynamics, which are themselves often negatively influenced by well-intended government policies.

Let us be clear today: Racism violates the most fundamental principles of our great Nation, and it breaks the heart of our just and loving God. The central idea of America, what has been called as our foundational creed, is that we boldly declare the self-evident truths that all men created equal and that we are thus endowed by our creator with the same inalienable rights. Because each of us is made in the image of God, every single person has inestimable dignity and value. And our value is not related in any way to the color of our skin, what neighborhood we live in, our intelligence, or our abilities. Our value is inherent because it is given to us by our Creator.

Many of my colleagues in this committee may not be aware that, in addition to our four children still at home, my wife, Kelly, and I actually have a much older son who happens to be African American. We took custody of Michael and made him part of our family 22 years ago when we were just newlyweds and Michael was just 14 and out on the streets and nowhere to go and on a very dangerous path. Michael is grown now. He has his own young family. He turns 36 years old next week. And he is a loving dad to four precious children of his own. God has been good to us, and he is a success story.

I mention that today for one reason: I personally know the challenge that he has faced early in his life. I have walked with him through discrimination that he has had to endure over the years and the hurdles he sometimes faced. I know all this because I was with him.

I asked Michael this weekend what he thinks about the idea of reparations. In a very thoughtful way, he explained his opposition. And it reminded me of something that Harvard history professor

Stephan Thernstrom has previously testified in this very committee. And he said this quote as I am wrapping: Finally, I would urge the members of this subcommittee and the House of Representatives as a whole to ponder carefully the message that will be conveyed by the passage of this bill, H.R. 40. When you are behind in a foot race, the Reverend Martin Luther King, Jr., said in 1963, the only way to get ahead is to run faster than the man in front of you. So, when your White roommate says he is tired and goes to sleep, you stay up and burn the midnight oil. Dr. King's words reflect an important tradition of self-reliance, I am still quoting, that has had eloquent advocates in the African American community. Frederick Douglass, Booker T. Washington, W.E.B. DuBois, and many others. All of them were saying in their different ways that African Americans were not powerless to better their lives until America owned up to its historical sins and offered them a generous financial settlement. The point is as important today as ever.

That is what he wrote to this committee the last time—or one of the last times this was debated.

Those great leaders encourage people to take control of and responsibility for their own lives because that gives every human being a greater sense of meaning, purpose, and satisfaction. And I know everybody in this room probably agrees with that idea, that principle.

The premise of H.R. 40 and similar legislation, however willing they may be, risks communicating the opposite message. Would it propagate a world view that says external forces from a century and a half ago are directing the fate of Black Americans today? I mean, it is an honest question some people ask. I think people who wholeheartedly agree that our Nation is still in the process of healing from its reprehensible sins of the past can ask that question.

There is no doubt that prejudice exists in our society, just as it has in every society since the fall of man in the garden. It exists in many communities and between many different races and types of people, sadly. And it is not reserved to just one race or class or ethnicity against another. We all know that. All of it is despicable. And every single instance of it is un-American.

The honest question we have today, and that is what we are here to discuss, is, what do we do about it?

All of us are here to listen to the thoughtful discussion today. I hope we will do it respectfully and with civility. We approach it in good faith. I promise you, every Member of Congress does. And I look forward to hearing from all of our witnesses.

Thank you again. I yield back.

Mr. COHEN. Thank you, Mr. Johnson.

And I want to apologize. I might have—we are not supposed to, in the audience, respond or speak out or applaud or cheer. And I am probably wrong for having encouraged and allowed what I think was a proper reference for Mr. Conyers. But if you'd not allow my error to be compounded, try to keep cool.

And I'd now like to recognize the chairman of the full committee, Mr. Nadler.

Chairman NADLER. Thank you, Mr. Chairman, for calling this important hearing.

This year, we mark the 400th anniversary of the first enslaved Africans arriving at the colony of Jamestown, Virginia. Today's hearing on H.R. 40 and the path to restorative justice gives us the opportunity to reflect on the shameful legacy of slavery and Jim Crow in this country and to examine how we can best move forward as a Nation. For nearly three decades, the former chairman of the Judiciary Committee, John Conyers of Michigan, introduced H.R. 40, which would establish a commission to study reparations proposals for African Americans. Our colleague, the gentlewoman from Texas, Ms. Jackson Lee, has taken up sponsorship of this legislation. And I am pleased to be a cosponsor as I was a cosponsor for many years when it was sponsored by Mr. Conyers.

H.R. 40 is intended to begin an national conversation about how to confront the brutal mistreatment of African Americans during chattel slavery, Jim Crow segregation, and the enduring structure of racism that remains endemic to our society today. Even long after slavery was abolished, segregation and subjugation of African Americans was a defining part of this Nation's policies that shaped its values and its institutions.

Today, we live with racial disparities in access to education, healthcare, housing, insurance, employment, and other social goods that are directly attributable to the damaging legacy of slavery and government-sponsored racial discrimination in the century following slavery's end. It is important to recognize that H.R. 40 makes no conclusion about how to properly atone for and to make recompense for the legacy of slavery and Jim Crow and their lingering consequences. Instead, it sets forth a process by which a diverse group of experts and stakeholders can study the complex issues involved and make recommendations to us.

Most serious reparations models that have been proposed to date have focused on restorative community-based programs of employment, healthcare, housing, and education initiatives—righting wrongs that cannot be fixed with checks alone.

This moment of national reckoning comes at a time when our Nation must find constructive ways to confront a rising tide of racial and ethnic division. In April, this committee held a hearing on hate crimes and the rise of White nationalism in order to begin framing a Federal response. Hate crimes, white supremacy, the legacy of slavery, the legacy of Jim Crow all hold back our country's longstanding efforts to carry out what the Preamble to our Constitution says it is designed to do: to form a more perfect union.

Reparations in the context of H.R. 40 are ultimately about respect and reconciliation and the hope that one day all Americans can walk together toward a more just future.

I hope that the commission established by H.R. 40 can help us better comprehend our own history and bring us closer to racial understanding and advancement and justice. Today's hearing gives the subcommittee an important opportunity to hear from witnesses directly involved in shaping the discourse on healing our society and creating a path to restorative justice.

I am pleased that we have such a distinguished panel of witnesses whose testimony will assist us greatly in understanding the scope of our inquiry. The discussion of reparations is a journey in which the road traveled may be almost as important as the exact

destination. I am pleased that the subcommittee is beginning this process today, and I look forward to hearing from our witnesses.

I yield back the balance of my time.

Mr. COHEN. Thank you, Mr. Nadler.

I would like to ask for unanimous consent that Representative Karen Bass be allowed to sit on the dais. She is a member of the committee but not the subcommittee.

Without objection. Welcome, Ms. Bass.

Mr. Green was just here, from Houston. I think he is coming back.

And now I'd like to recognize the gentlelady from Texas for an opening statement, Ms. Sheila Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, thank you very much. And thank you to Chairman Nadler for an identity of H.R. 40 as a legitimate legislative action that should receive the full hearing of this committee, should, in fact, have a markup, go to the floor of the House, go to the United States Senate, and be signed by the President of the United States of America. This is an action of legislative commitment, and this is not a symbolic action, though I am gratified that we are having this hearing on Juneteenth. And for those of us who understand Juneteenth, 2 years after the proclamation—Emancipation Proclamation—there were those Africans who did not have freedom until 1865.

So let me begin and indicate to my friends who have expressed a variety of assessments of H.R. 40 and say that America is a place it welcomes the diversity of thought. We even welcome the diversity of thought among the multicolored chocolate people that are African Americans, descendants of African slaves.

Let me be very clear. It is only this group—even though they attempted to enslave Native Americans, it is only this group that can singularly—singularly—claim to have been slaves under the auspices, the institution, and leadership of the United States Government.

And so H.R. 40 is in fact—is, in fact—the response of the United States of America long overdue. Slavery is original sin. Slavery has never received an apology. This commission will be compromised of members selected by the President of the United States, the Speaker of the House, the leader, and, of course, those who have been entrenched in this process.

I spoke to John Conyers yesterday. I am honored to have been given the opportunity to lead this bill. John Conyers said to move on and to lead on and for us to take this forward. Thank you, Congressman John Conyers, for all that you have done.

So let me share with you just a sense of what we face. Let me, first of all, say the number of Africans who died in Middle Passage, over 2 million. Number of enslaved who died during slavery first, second, and third generation, over 2.5 million. The transatlantic slave trade was the largest movement of people in history. Between 10 and 15 million Africans were forcibly transported across the Atlantic between 1500 and 1900. At least 2 million Africans, 10 to 15 percent, died in the infamous Middle Passage, as I said. Another 15 to 30 percent died during the march to or confinement along the coast. Altogether, for every hundred slaves who reached the New World, another 40 died in Africa or during the Middle Passage.

Who has a history like that? Reparations and the idea of this commission should be welcomed by all Americans for we are not asking one American to give one payment. What we are saying is the only way that slavery ended was a governmental action of the 13th Amendment, governmental action, and Reconstruction failed after 12 years because it was imploded by governmental people. And after Reconstruction, a reign of terror that had never been seen, the hanging fruit, the lynching, the oppression of voting, the tearing away of land, and the amazing concept of the continuing de jure and de facto impact of slavery today.

One million African Americans are incarcerated. That is a continuing impact. The Black employment rate is 6.6 percent, in spite of what has been said currently, more than double the national unemployment rate. Thirty-one percent of Black children live in poverty compared to 11 percent of White children. The national average is 18 percent, which suggests the percentage of Black children living in poverty is more than 150 percent. Even in spite of the glorious overcoming of the talent that is part of our community, the scraping together of making sure our children received education, the putting together something out of nothing, we still have been impacted. And only 57 percent of Black students have access to full range of math and science classes today. Black children were vaccinated at rates lower than White children. Educational mobility has been limited. Black children represent 19 percent of the Nation's preschool population, yet 47 percent of those receiving more than one-out-of-school suspension. Black students are 2.3 times as likely to receive a referral to law enforcement. And we know the criminal justice system.

So I conclude by these words: Black people in America are the descendants of Africans kidnapped and transported to the United States with the explicit complicity of the U.S. Government and every arm of the United States lawmaking and law enforcement infrastructure. The dehumanizing and atrocities of slavery were not isolated occurrences but mandated by Federal laws that were codified and enshrined in the Constitution. The role of the Federal Government in supporting the institution of slavery and subsequent discrimination directed against Blacks is an injustice that must be formally acknowledged and addressed.

I am not here in anger or anguish. I am not in any way seeking to encourage hostilities. There are diverse opinions in this room, and I understand it, appreciate it, respect it, admire it, and love it. I am a product of my history. I am clearly a child that has walked this path. No, I did not pick cotton. But I will say that those who picked cotton created the very basic wealth of this Nation, for cotton was king. There was no other product.

And so I ask my fellow colleagues that this is simply a constructive discussion that will lead to the practical responses.

And if I might, Mr. Chairman, put this article in the record from The New York Times dated June 17th: Downtown Boom, Kansas City, Missouri, and just a few blocks away, devastation in the Black community. Two cities mostly in every—I ask unanimous consent, Mr. Chairman.

Mr. COHEN. Without objection.

[The information follows:]

**MS. JACKSON LEE FOR THE OFFICIAL RECORD**

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8/17/2020

As Downtowns Prosper, Voters Ask Mayors: What About My Neighborhood? - The New York Times

The New York Times <https://nytl.ms/31Bvx0h>***As Downtowns Prosper, Voters Ask Mayors: What About My Neighborhood?***

By John Eligon and Mitch Smith

June 16, 2019

KANSAS CITY, Mo. — The resurgence of downtown Kansas City, Mo., radiates from the luxury apartment towers with floor-to-ceiling windows and a rooftop pool. It is visible in the art galleries and clothing boutiques flanking the new 2-mile streetcar line, and in the open-air bar and restaurant promenade that is packed with people when the weather is nice.

But in the shadows of the city's thriving business and entertainment district are languishing East Side neighborhoods pocked with boarded-up homes and overgrown, trash-strewn lots. The shiny cafes and storefronts are almost nonexistent there, and residents like LaTonya Bowman feel forgotten.

"I love downtown, and I would love to see it grow, too, but you've got to be real," said Ms. Bowman, 49, who lives in the predominantly black East Side. "It's like neglect. We get the leftovers."

That tension between a vibrant downtown and the distressed neighborhoods that surround it lies at the core of the race to become Kansas City's next mayor, which the city's voters will decide on Tuesday.

At nearly every campaign stop, the two candidates in the race, like many municipal politicians across the country, have vowed to make sure that economic growth in their city extends to neighborhoods that have felt left behind.

From Chicago to Detroit to Birmingham, Ala., the downtown-neighborhood debate is playing out in the wake of efforts by many cities to stem economic slides and population losses by heavily subsidizing development. City officials have managed to revamp parts of their urban landscapes, sparking the construction of new office towers, condominiums and upscale businesses such as yoga studios. Meanwhile, other neighborhoods — often those whose residents are mainly black or Hispanic — continue to lack basic amenities like grocery stores and restaurants.

Elected leaders are now being confronted with a critical question: How will they ensure that the whole city benefits from the downtown building booms that have soaked up so many tax dollars?

"The cities are a little out of balance: The well-to-do are doing quite well, but there are a lot of neighborhoods in which poverty, crime, bad schools and a bad life experience is still too prevalent," said Dick Simpson, a former Chicago alderman who advised his city's newly elected mayor, Lori Lightfoot. "If the current people who are in power, the mayor and the aldermen in different cities, don't show a responsiveness to these issues, they're going to be defeated by reformers."

In Kansas City, it seemed only natural two decades ago that elected leaders would focus heavily on downtown. Back then, the center of the city was widely considered a hollowed-out wasteland of wig stores, haunted houses and surface parking lots where very few people lived or opened businesses anymore.

Residents started returning to downtown around 2007, with the opening of a new arena and entertainment district. Thousands of new hotel rooms and apartment units have since come online, transforming downtown into a flourishing community.

But the infusion of energy has come with costs. The city has to do without tens of millions of dollars a year in property tax revenue because of the incentives that lured developers to build downtown. There are major concerns about affordability: The rent for a 1,200-square-foot apartment in the city center can run north of \$3,000 a month. And all of downtown's economic success has only deepened the chasm between it and the surrounding neighborhoods.

Both mayoral candidates say the city should have done a better job of developing downtown and the neighborhoods at the same time.

Barely two minutes into a recent debate, one of the candidates, Jolie Justus, declared that she wanted to ensure prosperity for everyone, "regardless of what neighborhood that you live in." Her opponent, Quinton Lucas, quickly jumped in to say that everyone deserved a fair shot, "particularly those who live in neighborhoods that are historically disadvantaged." Both candidates are members of the City Council.

Attention on neighborhood issues tends to be cyclical. It is spiking now, economists and urban experts said, partly because of an increasing national focus on wealth and income disparities.

"People at the local level in many places don't feel that their life is improving, given the work they're putting in and the investment they're putting in," said Andre M. Perry, a fellow at the Brookings Institution who researches race and structural inequality. "People feel that they're on a treadmill in neighborhoods."

8/17/2020

As Downtowns Prosper, Voters Ask Mayors: What About My Neighborhood? - The New York Times



Quinton Lucas, a candidate for mayor, spoke to residents of the Blue Hills neighborhood of Kansas City, Mo., in May. He and his opponent, Jolie Justus, have both promised to address the city's downtown-neighborhood disparity. Christopher Smith for The New York Times

In 2014, the mayor of New Orleans fended off criticism about uneven development after Hurricane Katrina when he won re-election. In 2017, a young, liberal lawyer made uplifting neighborhoods the centerpiece of his mayoral campaign in Birmingham and comfortably knocked off the incumbent. Detroit's incumbent mayor was accused of prioritizing downtown over the neighborhoods during his re-election bid two years ago, but he easily secured a second term after highlighting accomplishments that included tearing down vacant houses and repairing broken streetlights. And in Chicago this year, Ms. Lightfoot, a political newcomer, won by taking a broad view of neighborhood concerns, vowing to curb crime, improve schools and rebalance development.

Ms. Lightfoot inherited a city that many residents felt had become a place of diverging fates. On the South and West Sides, many neighborhoods were troubled by population loss, by segregation and disinvestment, by high homicide rates and suspicion of the police. Residents resented that while construction cranes were filling the downtown skyline, dozens of schools were being closed in black and Hispanic neighborhoods.

An Urban Institute study found that, household for household, majority-white neighborhoods in Chicago received nearly three times as much private and public investment as majority-black neighborhoods, and low-poverty neighborhoods got more than double the investment that high-poverty ones received.

Ms. Lightfoot's effort to reverse the decline in outlying communities without undermining downtown growth faces skepticism from some business leaders whose fortunes soared while her predecessor, Rahm Emanuel, was mayor.

"I think it's a false choice — I think we can and we must do both," she said. "What I've been trying to emphasize is we are all in this together, we have to grow together."

The divides within cities nationwide are very much a product of mid-20th century white flight to the suburbs, and the inversion of that trend in recent decades as white people have flocked back to city centers. Municipal leaders and developers have happily seized on those new taxpayers, investing heavily in amenities to cater to them. That has fueled resentment among black and Hispanic residents who see the city investing where white residents have settled while neglecting the areas where they live.

Mr. Lucas, one of the Kansas City mayoral candidates, says that doing more for overlooked neighborhoods will have to mean saying no to some downtown proposals.

"Every politician of all time will say, 'I support incentives in the poorest areas,'" he said in an interview. "The distinction is, after a while, to support incentives in the poorest areas, you have to not support them in the nicer areas."

Mr. Lucas's plan includes investing in housing rehabilitation and affordable housing units, and offering incentives to developers to step out of their downtown comfort zone and build on the East Side, where limited investment has only hastened problems of poverty and crime over the years.

"I want to make sure that we're actually spending time focusing on how we build up our communities first," Mr. Lucas, who is black and from the East Side, told a group of mostly black East Side business leaders during a meeting one recent morning. "I don't say our community just because it's ours. But I think it's because it's the core of the city. If you don't have a strong inner city, then you run into problems."



8/17/2020

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For Ms. Justus, his opponent, who is white, the scale of the East Side's problems became clear during a neighborhood walk with a fellow council member and a community leader. They turned down a desolate street bounded by thick, unruly trees and brush and saw the detritus of illegal dumping and homeless encampments scattered everywhere — red plastic cups, a water heater, a torn sofa. At another corner, Ms. Justus pointed to an empty corner lot with high grass and a view of the downtown skyline.

"What would make this pop faster is if a whole bunch of people lived here," she said.

Ms. Justus said she would appoint a deputy mayor for neighborhoods and would periodically run city hall for a time out of community centers in different neighborhoods. She said she would also consider tax abatements for new construction in distressed neighborhoods, and a cap on residential property taxes so that people are not taxed out of their homes. Investing in job training was important as well, she said.

"We will not be able to address the systemic issues, the infrastructure woes, if we don't also continue to increase our population base, our median income," she said. "We have to be very intentional about making sure that that happens in every neighborhood."

Part of the challenge in Kansas City is how diffuse the population is. Its population of nearly a half-million residents is spread across a land area about the size of New York City, which has 17 times as many inhabitants.

In order to create prosperous neighborhoods, the next mayor must persuade residents to care about the success of communities far from their own, said John James, 56, president of the Wendell Phillips Neighborhood Association on the East Side.

"I believe that if we put success downtown, if we put success in the airport, there's an opportunity for all of us to rise," he said. "But it needs to be a unified chain of thought."

Ms. JACKSON LEE. Two cities. I also ask unanimous consent to put a statement of support from John Legend.

Mr. COHEN. Without objection.

Ms. JACKSON LEE. Two cities, Mr. Chairman. And so let me just conclude by saying I hope that we come in peace. I know that we will hear from Senator Booker. I thank him, and I thank a number of others who have done this, including the heads of states, scholars, and activists in the Caribbean of playing a leading role in the global reparation movement. Many have been inspired by their work. I am delighted to see that professor Sir Hilary Beckles, vice chancellor of the University of West Indies and chairman of CARICOM Reparations Commission, has traveled all the way from Jamaica to be here. Thank you.

I am particularly glad that we are coming together as brothers and sisters and passing out accolades. I want to certainly acknowledge NCOBRA for its steadfast leadership on this issue over the years and playing an instrumental in garnering sponsors of H.R. 40. We are also delighted that several members of the National African American Reparations Commission are present and want to thank them for working closely with the dean, Congressman John Conyers, in reforming H.R. 40 into a bill to study reparations. I am delighted to have reintroduced it with its modification and carry it forward to its next level. Thank you, Dr. Ron Daniels. We thank you for your leadership. Look forward to working with you and the National African American Reparations Commission as we educate the Nation on the importance of enacting H.R. 40. And I'd like to thank Reverend Al Sharpton, National Action Networks convention, because he asked 15 Presidential candidates what their position was, and we now have raised this to a national level.

I just simply ask, why not, and why not now? If not all of us, then who? God bless us as we pursue the final justice for those who lived in slavery for 250 years in the United States of America. Please support H.R. 40 to its passage and signature by the President of the United States.

Mr. Chairman, thank you for your generosity and kindness. I yield back.

Mr. COHEN. Thank you, Ms. Lee.

I would also like to ask that H. Res. 194, which was an apology for slavery that the House passed in the 110th Congress, a resolution apologizing for the enslavement and racial segregation of African Americans, be introduced for the record. Without objection, it should be done.

Thank you.

[The information follows:]

**MR. COHEN FOR THE OFFICIAL RECORD**

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**H. Res. 194*****In the House of Representatives, U. S.,****July 29, 2008.*

Whereas millions of Africans and their descendants were enslaved in the United States and the 13 American colonies from 1619 through 1865;

Whereas slavery in America resembled no other form of involuntary servitude known in history, as Africans were captured and sold at auction like inanimate objects or animals;

Whereas Africans forced into slavery were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage;

Whereas enslaved families were torn apart after having been sold separately from one another;

Whereas the system of slavery and the visceral racism against persons of African descent upon which it depended became entrenched in the Nation's social fabric;

Whereas slavery was not officially abolished until the passage of the 13th Amendment to the United States Constitution in 1865 after the end of the Civil War;

Whereas after emancipation from 246 years of slavery, African-Americans soon saw the fleeting political, social, and economic gains they made during Reconstruction eviscerated by virulent racism, lynchings, disenfranchisement,

Black Codes, and racial segregation laws that imposed a rigid system of officially sanctioned racial segregation in virtually all areas of life;

Whereas the system of de jure racial segregation known as “Jim Crow,” which arose in certain parts of the Nation following the Civil War to create separate and unequal societies for whites and African-Americans, was a direct result of the racism against persons of African descent engendered by slavery;

Whereas a century after the official end of slavery in America, Federal action was required during the 1960s to eliminate the de jure and de facto system of Jim Crow throughout parts of the Nation, though its vestiges still linger to this day;

Whereas African-Americans continue to suffer from the complex interplay between slavery and Jim Crow—long after both systems were formally abolished—through enormous damage and loss, both tangible and intangible, including the loss of human dignity, the frustration of careers and professional lives, and the long-term loss of income and opportunity;

Whereas the story of the enslavement and de jure segregation of African-Americans and the dehumanizing atrocities committed against them should not be purged from or minimized in the telling of American history;

Whereas on July 8, 2003, during a trip to Goree Island, Senegal, a former slave port, President George W. Bush acknowledged slavery’s continuing legacy in American life and the need to confront that legacy when he stated that slavery “was . . . one of the greatest crimes of history . . . The racial bigotry fed by slavery did not end with

slavery or with segregation. And many of the issues that still trouble America have roots in the bitter experience of other times. But however long the journey, our destiny is set: liberty and justice for all.”;

Whereas President Bill Clinton also acknowledged the deep-seated problems caused by the continuing legacy of racism against African-Americans that began with slavery when he initiated a national dialogue about race;

Whereas a genuine apology is an important and necessary first step in the process of racial reconciliation;

Whereas an apology for centuries of brutal dehumanization and injustices cannot erase the past, but confession of the wrongs committed can speed racial healing and reconciliation and help Americans confront the ghosts of their past;

Whereas the legislature of the Commonwealth of Virginia has recently taken the lead in adopting a resolution officially expressing appropriate remorse for slavery and other State legislatures have adopted or are considering similar resolutions; and

Whereas it is important for this country, which legally recognized slavery through its Constitution and its laws, to make a formal apology for slavery and for its successor, Jim Crow, so that it can move forward and seek reconciliation, justice, and harmony for all of its citizens: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) acknowledges that slavery is incompatible with the basic founding principles recognized in the Declaration of Independence that all men are created equal;

(2) acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow;

(3) apologizes to African Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow; and

(4) expresses its commitment to rectify the lingering consequences of the misdeeds committed against African Americans under slavery and Jim Crow and to stop the occurrence of human rights violations in the future.

Attest:

*Clerk.*

Ms. JACKSON LEE. Mr. Chairman.

Mr. COHEN. And I would—

Yes, ma'am.

Ms. JACKSON LEE. I just want to—you did acknowledge Ms. Bass. I just want to indicate that Ms. Bass is the chairwoman of the Congressional Black Caucus, and we are delighted that she is here in many roles. But we thank her for being here.

Thank you, Mr. Chairman, for yielding.

Mr. COHEN. H. Res. 194 was intended to start this dialogue and have a national dialogue. Unfortunately, the Senate did pass an apology, but Mr. Brownback included a sentence that said it would have no effect upon reparations. Despite Mr. Hilary Shelton and Wade Henderson's insistence that they should still pass together and we could have a dialogue, we passed different resolutions. But the Senate did pass an apology as well, and I think it was the 111th Congress. And that was because of the good work of Senator Tom Harkin.

I would like to introduce into the record the testimony from William Darity, Jr., a professor of public policy on African American studies and economics at Duke University.

Without objection, so done.

And now I would like to come to the first panel. And we would like to welcome as our—to the first panel Senator Cory Booker.

Senator Booker, your written statement will be entered into the record. I would ask you to summarize your statement to 5 minutes.

Senator Booker represents the State of New Jersey in the United States Senate. October 16, 2013, he won a special election, and on November 4, 2014, he was reelected to a full 6-year term. He sits on the Senate Judiciary, Foreign Relations, Small Business, and Entrepreneurship, and the Environment and the Public Works Committees. He is the sponsor of S. 1083, the Senate companion to H.R. 40. He received his J.D. from Yale Law School and his undergraduate degree from Stanford University where they also play football. He was a Rhodes scholar at Oxford University earning an honor's degree in history.

Senator Booker, welcome. And you are recognized for 5 minutes.

**STATEMENT OF THE HON. CORY BOOKER, A UNITED STATES  
SENATOR FROM THE STATE OF NEW JERSEY**

Senator BOOKER. Thank you very much.

Chairman Nadler, chairman Cohen, Ranking Member Collins, and Ranking Member Johnson. I am glad that my written testimony will be put into the record.

I just want to say that I am sitting before you, on many days that I come down to Washington, brokenhearted, and very angry. I live in a Black and Brown inner city community below the poverty line. I have lived and worked in communities like this all my adult life. And yesterday, hundreds of yards from where I live, there were seven Black men shot. And this is an everyday occurrence in America.

I have the privilege of having leaders in my community who, over the decades, have given me strength. One of them was a woman that lived on the 5th floor of the projects, our tenant president, in some buildings in which I lived, whose son was murdered



as well in our community. And she taught me that hope is the active conviction, that despair won't have the last word.

But on a day like this, when I come back to Washington, D.C., seven people shot in my community, I wonder if other Senators had people shot like that in their neighborhood, whether that wouldn't be a lead national story. But I see the lives of low-income folks, lives of Black and Brown, folks. When people are shot and killed, the world seems to keep going on. And so I wonder about having the last word. What happens when the last word is no words, when it is silence? And I feel a sense of anger where we are in the United States of America where we have not had direct conversations about a lot of the root causes of the inequities and the pain and the hurt manifested in economic disparities, manifested in health disparities manifested in a criminal justice system that is, indeed, a form of new Jim Crow.

And so we as a Nation have not yet truly acknowledged and grappled with racism and white supremacy that has tainted this country's founding and continues to persist in those deep racial disparities and inequalities today. This is a very important hearing. It is historic. It is urgent.

I look at communities like mine, and you could literally see how communities were designed to be segregated, designed based upon enforcing institutional racism and inequities. We know that racialized violence and terrorism has persisted from Reconstruction well into the 1950s, as my friend Bryan Stevenson's National Memorial for Peace and Justice shows. We have seen bombings of churches. We have seen massacres at places as recently as the Emanuel AME Church just 4 years ago.

The stain of slavery was not just inked in bloodshed but in the overt state-sponsored policies that fueled white supremacy and racism and have disadvantaged African Americans economically for generations. Many of the bedrock policies, in fact, that ushered generations of Americans into the middle class were designed to exclude African Americans from the GI Bill to Social Security, intentionally designed to exclude Blacks as was school segregation, red-lining, neighborhoods like the one in which I live which were, by design, walled off and disinvested in.

And while these policies of the past, their damage and their reality has endured across generations and have created and led to so much of the racial wealth gaps in our country. Right now, we see cities like Boston, where the average White family has somewhere around \$240,000 in wealth and the average Black family has about \$8 in wealth. Health outcomes also vary wildly by race. Nationally, Black women are nearly four times as likely to die from pregnancy complications as White women, and in so many other areas. Our criminal justice system as well. No difference between Blacks and Whites for using drugs or selling drugs, but African Americans are about four times more likely to be arrested.

These injustices do not just cause injustice for African Americans. It enforces a deep injustice in our Nation as a whole. It is a cancer on the soul of our country and hurts the whole body politic, making us all less wealthy, making us all less just, making us all fall far short from being who we say we are when we swear an oath that this will be a Nation of liberty and justice for all.

I believe this is an urgent moment. And this bill, which I am now leading on the Senate side, is the beginning of an important process, not just to examine and study this history that has not been addressed, the silence that persists, but also to find practical ideas to address the enduring injustices in our Nation. The characterizations of such an effort that I hear from others is wrong and undermines our collective purpose and common ground. This idea that it is just about writing a check from one American to another falls far short of the importance of this conversation and what I believe we will truly talk about.

I say that I am brokenhearted and angry right now. Decades of living in a community where you see how deeply unfair this Nation is still to so many people who struggle, who work hard, who do everything right but still find themselves disproportionately with lead in their water, superfunds in their neighborhood, schools that don't serve their genius, healthcare disparities that still affect their body and their well-being.

We as a Nation must address this persistent inequalities, or we will never fully achieve the strength and the possibility. Hope is the active conviction that despair will not have the last word. I believe right now today we have a historic opportunity to break the silence, to speak to the ugly past, and talk constructively about how we will move this Nation forward.

As the old African saying says, if you want to go fast, go alone. If you want to go far, go together. It is about time we find the common ground and the common purpose to deal with the ugly past and make sure that generations ahead do not have to continue to mark disparities but can truly talk about a Nation whereas our ancestors spoke from the good book where justice rolls down like water and righteousness like a mighty stream.

Thank you, Mr. Chairman.

[The statement of Senator Booker follows:]

Senator Cory A. Booker  
 Testimony on H.R. 40 and the Path to Restorative Justice  
 Before the House Judiciary Committee  
 Subcommittee on the Constitution, Civil Rights and Civil Liberties  
 Wednesday, June 19, 2019

Chairman Nadler, Chairman Cohen, Ranking Member Collins, and Ranking Member Johnson, it's an honor to be here today to testify before the Committee. Thank you very much for holding this historic hearing on H.R. 40, the bill to study and make reparations proposals. Thank you to Representative Sheila Jackson Lee for her leadership in building such tremendous support for this bill, and to this committee's former Chairman, who first introduced this bill in 1989.

It is fitting that we gather today, on Juneteenth, a day purported to celebrate the abolition of slavery, our nation's original sin, and to commemorate our commitment to the freedom and equality of all.

But are we truly free from the historically rooted and hideous legacy of slavery? From the decades of violent terrorism that plagued African-American communities from Reconstruction through Jim Crow? From the state-sponsored and systematic exclusion of generations of African Americans from the promise of economic opportunity and prosperity?

As a nation, we have yet to truly acknowledge and grapple with the racism and white supremacy that tainted this country's founding and continues to cause persistent and deep racial disparities and inequality. In order to do so — we must address these issues head on. And while this conversation starts with the original sin of slavery, we know that its harm persisted in the racialized violence that terrorized African American communities from Reconstruction to this very day. From the more than 4,400 lynchings documented from 1877 to 1950 at my friend Bryan Stevenson's National Memorial for Peace and Justice to the massacre of "black wall street" in Tulsa in 1921. From the bombing of the 16<sup>th</sup> Street Baptist Church in 1963 to the shooting massacre at the

Emanuel AME Church in Charleston, South Carolina just four years ago this week.

The stain of slavery was not just inked in blood shed, but in the overt, state-sponsored policies, fueled by white supremacy and racism, that have disadvantaged African-Americans economically for generations. Many of our bedrock domestic policies that have ushered millions of Americans into the middle class, stimulating generational wealth and opportunity, like the GI bill, and Social Security, were intentionally designed to exclude blacks. From school segregation to red-lined neighborhoods to discriminatory mortgage lending...

These are not nameless and faceless harms. My own family, the year I was born, had to get a white family to pose as them in order to purchase the house where I grew up in New Jersey.

And while these may be policies of the past, the damage has endured across generations. The racial wealth gap in this country is unrelenting and widening. The average white household in this country has TEN TIMES the wealth of the average black household. In Boston, a recent study found that the average white family had somewhere around \$240,000 in wealth, while the average black family had just \$8 in wealth. This vast racial wealth gap has been entrenched and exacerbated by federal policies that have intentionally excluded blacks from wealth-building and opportunity.

Health outcomes also vary widely by race. Nationwide, black women are nearly four times as likely to die from pregnancy complications as white women. Access to health care services continues to be segregated by race, which results in disturbing disparities where blacks are 44% more likely to die from a stroke and 25% more likely to die from heart disease.

Our criminal justice system has been destroyed by racial disparities and implicit racial bias. Blacks are almost four times more likely to be

arrested for selling drugs despite the fact that whites are more likely to sell drugs than blacks. There is no difference between blacks and whites in using drugs, yet blacks are nearly three times more likely to be arrested than whites. Federal prosecutors are more likely to charge blacks with offenses that carry harsh mandatory minimums than similarly situated whites.

The list goes on...

And these disparities don't just harm black communities. As the great Dr. Martin Luther King Jr. said, QUOTE: **"Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."**

These injustices and generational harms hurt ALL Americans. Providing equal opportunity and access to the black community ultimately leads to a stronger economy and better opportunity for EVERYONE. Right now, we as a country are all shouldering the tremendous cost of disparity, from homelessness, to mass incarceration – rather than addressing the historical roots of racial inequality.

That's why I'm leading the companion to H.R. 40 in the Senate. It is time that we seriously examine and study our collective history, and advance ideas and proposals for our future as a nation.

This bill would bring together the kinds of experts that you will hear from in the next panel, to study and address head on the painful legacy of slavery and develop solutions that will finally begin to right the economic scales of past harms and make sure we are a country where all dignity and humanity is affirmed. So that ALL Americans can enjoy the promise of equality and opportunity.

I'm grateful and encouraged that the Senate version of this bill has gained the support of 12 of my colleagues – and I will continue to work to ensure that this important conversation continues.

Thank you again for giving me this opportunity to testify.

Mr. COHEN. Thank you so much, Senator Booker.

I appreciate your testimony. Very heartfelt and well received.

I also want to just reiterate that Congressman Al Green was here, and he is a great champion.

Now, I would like to call upon our second panel and thank Senator Booker for his sponsorship and his statement and wonderful words. Thank you, sir.

The second panel, if they'd come forward. I guess we need chairs.

There we go. The chair crowd is here. Good.

Okay. Enough with the pictures.

And if the Hope Hicks hearing—well, that is neither here nor there.

We welcome our witnesses and thank them for participating in today's hearing. Your written statement will be entered into the record in its entirety, and I ask you to summarize your testimony 5 minutes. There is a lighting system. Green means you are on. Blue means you have got—yellow means you have got a minute left, and red, you are over, cut, finished.

Before proceeding, I remind each witness that your written and oral statements made to the subcommittee in connection with this hearing are subject to penalties of perjury pursuant to 18 U.S.C. 1001, which may result in the imposition of a fine or imprisonment of up to 5 years.

Our first witness is Ta-Nehisi Coates. If I mispronounced it, I am sorry. Chris Hayes didn't teach me well when we first met. Mr. Coates is an author and distinguished writer in residence at New York University Carter Journalism Institute, a position he has held since 2017. He has held a variety of academic positions since 2010. Additionally, from 2008 to 2018, he was a national correspondent for The Atlantic where he wrote an extensive piece in June 2014 on the case for reparations. I believe he also addressed Rhodes College on that subject sometime in Memphis, Tennessee. He is the author of three books, numerous articles and blog posts.

Mr. Coates, thank you for being here, and you are recognized for 5 minutes.

**STATEMENTS OF TA-NEHISI COATES, DISTINGUISHED WRITER IN RESIDENCE, ARTHUR L. CARTER JOURNALISM INSTITUTE OF NEW YORK UNIVERSITY; DANNY GLOVER, ACTOR AND ACTIVIST; KATRINA BROWNE, DOCUMENTARIAN, TRACES OF THE TRADE; COLEMAN HUGHES, WRITER, QUILETTE; BURGESS OWENS, SPEAKER AND WRITER; THE RIGHT REVEREND EUGENE TAYLOR SUTTON, EPISCOPAL BISHOP OF MARYLAND; JULIANNE MALVEAUX, ECONOMIST AND POLITICAL COMMENTATOR; AND ERIC J. MILLER, PROFESSOR, LOYOLA LAW SCHOOL, LOYOLA MARYMOUNT UNIVERSITY**

#### **STATEMENT OF TA-NEHISI COATES**

Mr. COATES. Yesterday, when asked about reparations, Senate majority leader Mitch McConnell offered a familiar reply: America should not be held liable for something that happened 150 years ago since none of us currently alive are responsible. This rebuttal proffers a strange theory of governance, that American accounts are somehow bound by the lifetime of its generations.

But well into this century, the United States was still paying our pensions to the heirs of Civil War soldiers. We honor treaties that date back some 200 years, despite no one being alive who signed those treaties. Many of us would love to be taxed for things we are solely and individually responsible for. But we are American citizens and thus bound to a collective enterprise that extends beyond our individual and personal reach.

It would seem ridiculous to dispute invocations of the Founders or the Greatest Generation on the basis of a lack of membership in either group. We recognize our lineage as a generational trust, as inheritance. And the real dilemma posed by reparations is just that: a dilemma of inheritance. It is impossible to imagine America without the inheritance of slavery. As historian Ed Baptist has written, enslavement, quote, shaped every crucial aspect of the economy and politics of America so that by 1836, more than 600 million, or almost half of the economic activity in the United States, derived directly or indirectly from the cotton produced by a million-odd slaves.

By the time the enslaved were emancipated, they compromised the largest single asset in America: 3 billion in 1860 dollars, more than all the other assets in the country combined. The method of cultivating this asset was neither gentle cajoling nor persuasion but torture, rape, and child trafficking.

Enslavement reigned for 250 years on these shores. When it ended, this country could have extended its hollowed principles, life, liberty, and the pursuit of happiness, to all regardless of color. But America had other principles in mind. And so, for a century after the Civil War, Black people were subjected to a relentless campaign of terror, a campaign that extended well into the lifetime of Majority Leader McConnell.

It is tempting to divorce this modern campaign of terror, of plunder from enslavement. But the logic of enslavement, of white supremacy, respects no such borders. And the god of bondage was lustful and begat many heirs: coup d'etats and convict leasing, vagrancy laws and debt peonage, redlining and racist GI Bills, poll taxes and state-sponsored terrorism. Regret that Mr. McConnell was not alive for Appomattox. But he was alive for the electrocution of George Stinney. He was alive for the blinding of Isaac Woodard. He was alive to witness kleptocracy in his native Alabama and a regime premised on electoral theft.

Majority Leader McConnell cited civil rights legislation yesterday, as well he should, because he was alive to witness the harassment, jailing, and betrayal of those responsible for that legislation by a government sworn to protect them. He was alive for the redlining of Chicago and the looting of Black homeowners of some \$4 billion. Victims of that plunder are very much alive today. I am sure they would love a word with the majority leader.

What they know, what this committee must know, is that while emancipation dead-bolted the door against the bandits of America, Jim Crow wedged the windows wide open. And that is the thing about Senator McConnell's something. It was 150 years ago, and it was right now. The typical Black family in this country has 1/10th the wealth of the typical White family. Black women die in childbirth at four times the rate of White women. And there is, of



course, the shame of this land of the free boasting the largest prison population on the planet of which the decedents of the enslaved make up the largest share.

The matter of reparations is one of making amends and direct redress. But it is also a question of citizenship. In H.R. 40, this body has a chance to both make good on its 2009 apology for enslavement and reject fair-weather patriotism; to say that a Nation is both its credits and its debits, that if Thomas Jefferson matters, so does Sally Hemings; that if D-Day matters, so does Black Wall Street; that if Valley Forge matters, so does Fort Pillow. Because the question really is not whether we will be tied to the somethings of our past but whether we are courageous enough to be tied to the whole of them.

Thank you.

[The statement of Mr. Coates follows:]

Testimony before the House of Representatives Committee on the Judiciary, Subcommittee on the Constitution and Civil Justice

June 19, 2019

By Ta-Nehisi Coates

Yesterday, when asked about reparations, Senate Majority Leader Mitch McConnell offered a familiar reply: America should not be held liable for something that happened 150 years ago” since “none of us currently are responsible. This rebuttal proffers a strange theory of governance—that American accounts are somehow bound by the lifetime of its generations. But well into this century, the United States was still paying out pensions to the heirs of Civil War soldiers. We honor treaties that date back some 200 years, despite no one being alive who signed those treaties. Many of us would love to be taxed for the things we are solely and individually “responsible for.”

But we are American citizens and thus bound to a collective enterprise that extends beyond our individual and personal reach. It would seem ridiculous to dispute invocations of the Founders or the Greatest Generation on the basis of a lack of membership in either group. We recognize our lineage as a generational trust, as inheritance. And the real dilemma posed by reparations is just that: a dilemma of inheritance.

It is impossible to imagine America without the inheritance of slavery. As historian Ed Baptist has written, enslavement “shaped every crucial aspect of the economy and politics of

[America],” so that by 1836, “more than \$600 million, or almost half of the economic activity in the United States ... derived directly or indirectly from the [sic] cotton produced by the million-odd slaves.” By the time the enslaved were emancipated, they comprised the largest single asset in America—\$3 billion in 1860 dollars, more than all the other assets in the country combined. The method of cultivating this asset was neither gentle cajoling nor persuasion, but torture, rape, and child trafficking.

Enslavement reigned for 250 years on these shores. When it ended, this country could have extended its hallowed principles— “life, liberty, and the pursuit of happiness”—to all, regardless of color. But America had other principles in mind. And so for a century after the Civil War, black people were subjected to a relentless campaign of terror—a campaign that extended well into the lifetime of Majority Leader McConnell.

It is tempting to divorce this modern campaign of terror, of plunder, from enslavement. But the logic of enslavement—of white supremacy—respects no such borders. And the god of bondage was lustful and begat many heirs—coup d’états and convict leasing, vagrancy laws and debt peonage, redlining and racist G.I. bills, poll taxes and state-sponsored terrorism. We grant that Mr. McConnell was not alive for Appomattox. But he was alive for the electrocution of George Stinney. He was alive for the blinding of Isaac Woodard. He was alive to witness kleptocracy in his native Alabama and a regime premised on electoral theft. Majority Leader McConnell cited civil rights legislation yesterday—as well he should, because he was alive to witness the harassment, jailing, and betrayal of those responsible for that legislation, by a government

sworn to protect them. He was alive for the redlining of Chicago and the looting of black homeowners of some \$4 billion. Victims of that plunder are very much alive today. I am sure they'd love a word with the majority leader.

What they know—what this committee must know—is that while emancipation dead-bolted the door against the bandits of America, Jim Crow wedged the windows wide open. And that is the thing about Senator McConnell's "something"—it was 150 years ago. And it was right now. The typical black family in this country has one-tenth the wealth of the typical white family. Black women die in childbirth at four times the rate of white women. And there is of course the shame of this "land of the free" boasting the largest prison population on the planet, of which the descendants of the enslaved make up the largest share.

The matter of reparations is one of making amends and direct redress. But it is also a question of citizenship. In H.R. 40, this body has a chance to both make good on its 2009 apology for enslavement and reject fair-weather patriotism—to say that a nation is both its credits and its debits, that if Thomas Jefferson matters, so does Sally Hemings; that if D-Day matters, so does black Wall Street; that if Valley Forge matters, so does Fort Pillow. Because the question really is not whether we will be tied to the "somethings" of our past, but whether we are courageous enough to be tied to the whole of them. Thank you.

Ta-Nehisi Coates Testimony Attachment:

<https://docs.house.gov/meetings/JU/JU10/20190619/109648/HHRG-116-JU10-Wstate-CoatesT-20190619-SD001.pdf>

Mr. COHEN. Thank you, Mr. Coates.

Next witness is Mr. Danny Donny Glover, an actor, a producer, and an activist for various causes. He is currently goodwill ambassador for UNICEF, chairman of the board of TransAfrica Forum, an African American lobbying organization for Africa and the Caribbean, and a friend of Harry Belafonte.

You are recognized for 5 minutes.

#### STATEMENT OF DANNY GLOVER

Mr. GLOVER. Thank you, Mr. Coates.

It is not often that you hear the words of a young man and they enliven your emotional memory, your historic memory, as he just did at this moment. Thank you so much.

I am deeply honored to be here today offering my testimony at this historic meeting about the reckoning of a crime against humanity that is foundational to the development of democracy and material well-being in this country.

A national reparations policy is a moral, democratic, and economic imperative. I sit here as the great grandson of a former slave, Mary Brown, who was freed by the Emancipation Proclamation on January 1, 1863. I had the fortune of meeting her as a small child. I also sit here as the grandson of Reese Mae Hunley and Rufus Mack Hunley. My maternal grandparents were both born before *Plessy v. Ferguson*, a Supreme Court decision in 1896. And for a significant portion of their lives, they were sharecroppers and tenant farmers in rural Georgia until they were able to save enough money to purchase a small farm. They were subsistence farmers.

Despite much progress over the centuries, this hearing is yet another important step in the long and heroic struggle of African Americans to secure reparations for the damages inflicted by enslavement and post-Emancipation and racial exclusionary policies. Many of the organizations who are present today at this hearing are amongst the historical contributors to the present national discourse, congressional deliberations, and Democratic Party Presidential campaign policy discussions about reparations.

We are also indebted to the work of Congressman John Conyers for shepherding this legislation. The adoption of H.R. 40 can be a signature legislative achievement, especially within the context of the United Nations International Decade for People of African Descent.

We should also note that Common Market Nations and the Caribbean community, CARICOM, Reparations Commission, chaired by Professor sir Hilary Beckles, who is here with us today, has exercised a leadership role from which we as a Nation can benefit. Our sustained direct effective policy actions in full collaboration with African Americans and progressive citizens allies is the ultimate proof of the sincerity of our national commitment to repair the damages of the legally and often religiously sanctioned inhumanity of slavery, segregation, and current structural racism that limit full democratic participation and material advancement of African Americans and of our country's progress as a beacon of justice and equality.

So I call on all of the elected public officials in Congress to demonstrate your commitment and action today and stand forth with Congresswoman Sheila Jackson Lee and cosign H.R. 40.

In closing, with insightful and still—I close—excuse me—with the insightful and still relevant words of Dr. Martin Luther king, Jr., in 1968. And I quote: Why is the issue of equality still so far from solution in America, a Nation which professes itself to be democratic, inventive, hospitable to new ideas, rich, productive, and ultimately powerful. Justice for Black people will not flow into society merely from court decisions nor from fountains of political oratory, nor will a few token changes quell all the tempestuous yearnings of millions of disadvantaged Black people. White America must recognize that justice for Black people cannot be achieved without radical changes in the structure of our society. The comfortable, the entrenched, the privileged cannot continue to tremble at the prospect of change in the status quo.

Thank you.

[The statement of Mr. Glover follows:]

**Danny Glover**  
**HR 40 Hearing Testimony**  
**Wednesday June 19, 2019**  
**Juneteenth**

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{GLOVER ADDITION HERE – 30 SECONDS}

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Mr. COHEN. Thank you.  
Go ahead.

Ms. Katrina Browne is our next witness. She is a freelance speaker, educator, and facilitator. She produced and directed the documentary film "Traces of the Trade: A Story from the Deep North," which she made in response to her discovery that her Rhode Island ancestors were the largest slave-trading family in United States history. She also currently serves as a consultant for the Episcopal Church's initiatives on racial healing, justice, and reconciliation, authoring a 10-session race dialogue series for congregational use. And I must parenthetically say that, when we were doing our apology, the Episcopal Church beat us to it. They were leaders on that effort. She has an M.A. in theology from the Pacific School of Religion where she wrote a thesis on film and civic dialogue.

And you are recognized for 5 minutes.

#### STATEMENT OF KATRINA BROWNE

Ms. BROWN. Thank you, Chairman Cohen and Ranking Member Johnson and Representative Jackson Lee for the opportunity to speak this morning.

I grew up in Philadelphia, six blocks from Independence Hall and the Liberty Bell. I am a deep-seated patriot. So it was devastating to learn from my grandmother at age 28 that our ancestors had been slave traders and to discover that the DeWolfs were, in fact, the largest slave-trading family in United States history, bringing over 12,000 Africans to the Americas in chains. That these were my Rhode Island ancestors and that Rhode Island turns out to be the State that sent more ships to Africa than any other required me to reorganize my brain.

The amnesia in my family matched the larger amnesia of the North. The self-serving myths of being always on the right side of history. I could no longer carry a sense of moral superiority relative to White southerners nor a sense of innocence vis-a-vis the Black claims—vis-a-vis Black claims on the White conscience. I decided to initiate a family journey to retrace the triangle trade. Nine relatives joined me, two of which are here today. And the documentary "Traces of the Trade" is the result, the subtitle being "A Story from the Deep North."

What we learned, how we stumbled, how we grew during that journey led me to become a passionate believer in the importance of reckoning with the history and legacy of slavery, a believer in personal and family reckonings, institutional ones, and larger national reckoning, and, with that, in the need for repair or reparative action, which can and should take many, many forms. I express wholehearted support for H.R. 40, and I have met countless people of all backgrounds who believe in this form of national effort as well.

I know there are many who strenuously object to the premise that we need this reckoning. The pushback I hear most often is that is your problem given your ancestors, but it has nothing to do with me.

It is understandable that people distance themselves. I will focus on two reasons. One, most of us learned a distorted history of slav-

ery in school. So, as White Americans, most of us don't realize our connection to it. Second, there is a natural instinct to avoid that which can bring feelings of shame about our people, about the country that we love. To address the first issue, here is a quick rundown of historical facts I had not been taught: that the North was deeply implicated; that slavery was legal in Northern States for over 200 years; that northerners up and down the economic spectrum made their livings and businesses tied to slave trade and slavery; that Northern mills processed cotton harvested by enslaved people.

The Midwest and the West were implicated. They grew food to feed the South where land was devoted to cash crops like cotton harvested by the enslaved. Consumers throughout the country were implicated in their everyday purchases of clothing, coffee, sugar, rice, tobacco.

People who immigrated from Europe after slavery were implicated. I have Irish, French, and German immigrant ancestors who came to the United States in the 19th century, worked in factories, struggled. But they were given access to the American Dream. Why were waves of immigrants flocking here? Because it was the land of opportunity. Why was the economy booming? Why were there jobs? Because it had been built largely on unpaid labor.

Once here, European immigrants got to systematically leapfrog over Black families with devastating consequences up to the present day. So slavery built the Nation. It turned—turning us into an economic powerhouse due mostly to, I must say, good folk who participated in mundane ways and looked the other way.

Now for the second big reason for pushback against this bill: the emotions that it stirs up. And I would speak directly to my fellow White Americans on this. First, fear not, though it is counterintuitive, I have seen over and over again the liberating power of facing this painful past.

Second, White people tend to imagine that Black people are angry at us. But in my experience, Black Americans don't blame us for the deeds of bygone ancestors but are rightfully angry that we don't just drop the defensiveness or the self-absorbed guilt and sign up to work with them shoulder to shoulder to tackle the legacies that are still with us.

Third, when we let go of defensiveness or guilt, we can get to a healthy and shared grief which opens the door to sober, sacred, respectful, creative, collective conversation about how to make things right.

There are scores of organizations that are already able to attest to this, the power of this work. They know, I know that the process that a commission would help the country embark upon could be a transformative, positive, and life-giving thing for the country as a whole, a beautiful thing. It is good for the soul of a person, a people, and of a nation to set things right.

Thank you.

[The statement of Ms. Browne follows:]

## **H.R. 40 and the Path to Restorative Justice**

A hearing in the Subcommittee on the  
Constitution, Civil Rights, and Civil Liberties,  
of the Committee on the Judiciary,  
of the U.S. House of Representatives

June 19, 2019

### **Written Testimony of:**

Katrina Colston Browne

Producer/Director

*Traces of the Trade: A Story from the Deep North*

Submitted:

June 17, 2019

I grew up in Philadelphia, six blocks from Independence Hall and the Liberty Bell. I used to walk on stilts with a colonial bonnet on the sidewalk in front of our house, selling lemonade to tourists. I loved knowing that in my daily life in the neighborhood I got to walk on the same brick sidewalks and cobblestone streets that Benjamin Franklin, Thomas Jefferson, and George Washington walked on. To this day I still tear up with patriotic idealism when films or TV shows cover anything about the writing of the Declaration of Independence or the Constitution.

Fast forward: When I was twenty-eight, I was in seminary studying theology and ethics, and my grandmother did something that changed my life forever. She sent a booklet to all her grandchildren summarizing our family history. She had the courage to include two sentences which plainly stated that our Rhode Island ancestors had been slave traders. Rhode Island. Slave traders. I was shocked and devastated. And within moments I realized I already knew this about our family. I realized I had buried it because it was too painful.

What my grandmother didn't know, but I soon found out, was that the DeWolfs, over three generations, brought more enslaved Africans to the Americas than any other U.S. family, from the North or the South. Over twelve thousand men, women, and children were taken across the Middle Passage on their ships. The family's leading slave trader, James DeWolf, was reported to have become the second-richest man in the nation by the time of his death—and he had served as a member of the U.S. Senate.

It was clear to me that I needed to reckon with this. I was frightened, but I sensed that I would come to much more deeply understand today's world, my position in it, and the implications. How might I have been set up for success by this seemingly distant past?

One of the first things I learned was that the DeWolfs were not alone: Rhode Island was the state that dominated the slave trade. Not South Carolina, not Virginia. And this was just the tip of the iceberg. Contrary to what I, and so many of us, learned in history classes growing up, slavery was legal in northern states for over 200 years; a considerable percentage of northerners made their livings in businesses tied to the slave trade and slavery; and even as slavery and the slave trade were being abolished in the North, the Industrial Revolution took hold in northern mills processing raw cotton harvested by enslaved people in the South; banks and insurance companies made fortunes financing southern cotton production; and so on and so on.<sup>1</sup>

Accepting this reality required reorganizing my brain. It flew in the face of my understanding of Northerners as heroic abolitionists, the good guys. The amnesia in myself and my family matched a broader northern amnesia. So this was a story that needed to be told.

I decided to make a documentary film. I wrote to over 200 DeWolf descendants, most of whom I didn't know, and asked who would join me on a filmed trip to retrace the path of our ancestors' triangle trade: from Rhode Island, to the slave forts in Ghana, to the sites of family plantations in Cuba. Ten of us set forth in the summer of 2001. The film *Traces of the Trade: A Story from the Deep North*, along with my cousin Tom DeWolf's book *Inheriting the Trade*, chronicle our journey. Hundreds of amazing people put their hearts, minds and hands into the making of the film. The documentary premiered at the Sundance Film

<sup>1</sup> Christy Clark-Pujara, *Dark Work: The Business of Slavery in Rhode Island* (New York: New York Univ. Press, 2016); Mac Griswold, *The Manor: Three Centuries at a Slave Plantation on Long Island* (New York: Farrar, Straus and Giroux, 2013); C.S. Manegold, *Ten Hills Farm: The Forgotten History of Slavery in the North* (Princeton, N.J.: Princeton Univ. Press, 2010).

Festival in 2008 and aired later that year on PBS's P.O.V. series. I went on to co-found an organization, the Tracing Center on Histories and Legacies of Slavery, to deepen our work. Two of my relatives from the filmed journey are here with me this morning: Elizabeth Sturges Llerena and James DeWolf Perry.

What we learned, what we faced, how we stumbled, how we grew during that journey led us all to become passionate believers in the importance of reckoning with the history and legacy of slavery. Believers in personal and family reckonings, institutional ones, and larger national reckoning. And with that, we believe in the rightness of the cause of "repair," of reparative action, of restorative justice, which can and should take many forms, and which a commission could explore. So I speak for the ten of us, when I express whole-hearted support for H.R. 40.

That being said, I want to acknowledge right away that the very idea of this process of inquiry frightens or angers many Americans. For them, to even consider reparations for slavery and racism is to assault their sense of what this nation has been, of how we achieved our national greatness, and perhaps even the role their own families and communities played in this history. To weigh a national effort at acknowledgment and repair is to discount what they believe were the hard sacrifices of previous generations, to question the sources of their prosperity, to connect them to the history of slavery ... and on the wrong side.

In hundreds and hundreds of screenings, dialogues, and workshops, I and other family members have heard the same objections already being raised about H.R. 40: "But my ancestors weren't even here during slavery!" "My ancestors lived in the North!" "Any reparations should be paid by the wealthy few who profited from slavery." "Weren't our Civil War dead reparations enough?"

These objections reveal the pleasant myths about our history to which Americans of all backgrounds have traditionally been exposed in our schools, our museums, our public parks, and our commemorative events. These myths arose in part because Americans didn't want to talk about inconvenient truths, and in part as a grand bargain after the Civil War, to allow those in the North and the South to have their different explanations for the national conflict and its causes.<sup>2</sup> In time, these historical myths about the presence or absence of slavery, who was or wasn't involved, and what enslaved labor meant for our national progress, became entrenched in the historical narratives which form a core part of our various identities, as individuals and as members of families, communities, regions, and the nation itself.<sup>3</sup> To question these historical myths is to chip away at the foundations of many Americans' sense of self and of belonging.

I want to put forward an alternative way of seeing the process that a commission would help the country embark upon. It could be a transformative, healthy, healing, positive and life-giving thing for the country as a whole. A beautiful thing. It is good for the soul of a person and of a nation to set things right. Right relationship is a good thing. Repairing harm is a good thing – for all involved. Love of neighbor and of stranger is core to all of the great religious traditions and key to that are the concepts of fairness, of justice, and of making amends where grievous harm has been done. And, importantly, a compassionate, just society is good for all people. It is the vision of beloved community articulated by the Reverend Dr. Martin Luther King, Jr.

I'll now share some of the key learnings for me from our family journey in hopes that they have larger resonance. They speak directly to the misconceptions about our national history referred to above, and to the emotionally-charged nature of all of this. In sharing reflections, I am drawing not just on our

<sup>2</sup> See Robert Penn Warren, *The Legacy of the Civil War* (Lincoln, Nebr.: Univ. of Nebraska Press, 1961).

<sup>3</sup> Kristin L. Gallas and James DeWolf Perry, "Comprehensive Content and Contested Historical Narratives," in Gallas and Perry, eds., *Interpreting Slavery at Museums and Historic Sites* (Lanham, Md.: Rowman & Littlefield, 2015), 1-20.

experiences retracing the triangle trade, but on the eleven years since the film came out, during which I, like other family members, have been privileged to travel extensively with the documentary for screenings and dialogues in hundreds of religious congregations (especially within the Episcopal Church), schools, museums, community groups, etc., hearing from thousands of people – including those of both African and European descent – about what is on their hearts.

To cut to the chase, I have come to understand the massive scope and scale not just of my family's involvement, but of the whole institution of slavery: what an economic engine it was in our becoming the powerhouse nation that we are – how it drove upward mobility for white people across the economic spectrum, during and after slavery, while creating untold suffering for those whose very bodies, labor, language, culture, religion, and freedom were stolen.<sup>4</sup> Meanwhile, I see in myself and in other white people an instinctual and I would add – understandable – urge to distance ourselves from facing these facts, from being associated with this history in any way, and thus from being associated with any responsibility for its legacies.

So to share in more detail about some of the core revelations and reframes I experienced:

First was the realization that given Northern complicity, slavery built this *nation*, and not just the South.<sup>5</sup> As my esteemed fellow panelist Ta'Nehisi Coates said once: "Slavery wasn't just a bump in the road, it was the road."<sup>6</sup> Even the so-called free states generally permitted slavery at one time or another,<sup>7</sup> and in many, free economic enterprise during westward expansion included (in what is now the Midwest) growing foodstuffs to feed the southern states where land was devoted to cash crops like cotton and tobacco.

Once I understood that this was a national institution, I began seeing that the legacies are for the entire nation to address. The calculus changes.

It's important to acknowledge that white northern complicity in slavery is not news to most white southerners, nor to black Americans, where there's a tradition of calling the North "Up South." So another revelation was that I'd been carrying a self-righteousness, a sense of moral superiority relative to white southerners that was ill-founded. At one screening a white woman came up to me in tears saying she knew the South had much to atone for, but she was grateful for my family's acknowledgement that they are not alone. Suddenly I was seeing all the culture wars over the meaning of the Civil War in a new light. A commission could delve into these consequential layers – of not just black/white divides, but white North/white South resentments that fuel the politics of region and race up to the present day.

So there's a pattern of distancing and dissociating I started noticing everywhere: white southerners want to distance themselves (e.g., embracing the myth that the Civil War wasn't fought over slavery) and white northerners want to distance ourselves (e.g., embracing the myth that the North went to war to emancipate

<sup>4</sup> This is not to say that the enslaved, and free people of African descent, were ever merely victims of slavery. See, for instance, Manisha Sinha, *The Slave's Cause: A History of Abolition* (New Haven: Yale Univ. Press, 2016).

<sup>5</sup> See, e.g., Gene Dattel, *Cotton and Race in the Making of America: The Human Costs of Economic Power* (Chicago: Ivan R. Dee, 2009); Sven Beckert and Seth Rockman, eds., *Slavery's Capitalism: A New History of American Economic Development* (Univ. of Pennsylvania Press, 2016).

<sup>6</sup> Consider the historical relationship of our nation's premiere educational institutions to slavery and racism: Craig Steven Wilder, *Ebony & Ivy: Race, Slavery, and the Troubled History of America's Universities* (New York: Bloomsbury Press, 2013); Leslie M. Harris, James T. Campbell and Alfred L. Brophy, eds., *Slavery and the University: Histories and Legacies* (Athens, Ga: Univ. of Georgia Press, 2019).

<sup>7</sup> For one example, see R. Gregory Nokes, *Breaking Chains: Slavery on Trial in the Oregon Territory* (Oregon State Univ. Press, 2013).



the enslaved), and then there's another group, which is white people who say to me constantly: "We came after slavery!" – clearly by way of saying: "This is your problem, not mine." Interestingly, that's my people too. I of course have many ancestors, so in addition to the DeWolfs who occupied an elite status, I have European immigrant ancestors who came to the U.S. in the 19<sup>th</sup> century, worked in factories, and struggled. But because they were defined as "white," they were able to move up the economic ladder,<sup>8</sup> assimilate, marry into wealthier families, etc. Their lives, and those of their descendants, were simply very, very different from those of millions of black families who were already here but not yet able to access the opportunities available to even the poorest, least educated, most recent arrivals from Europe.

I'll never forget when I met with historian David Brion Davis and he broke it down: (to paraphrase) "Why do you think waves of European immigrants were flocking here? Because it was the Land of Opportunity. Because there were jobs. And why do you think the economy was booming and the Industrial Revolution taking off? Because the economy was built on unpaid labor. And did the recently freed slaves get the benefit of those factory jobs? No, European immigrants, because they were white, got to leapfrog over them, with devastating consequences for black families up the present time."

This is not to say that all white people today are securely in the middle or upper class. Poor and working class whites don't have privilege to the degree that I do. This is important to name. But many of today's harmful class and race dynamics were set in motion long ago as part of this history. The southern planter elite led the way in deploying the invented concept of race – the fiction of blacks and whites being separate races, with whites as the superior race – to both justify keeping Africans enslaved, and to entice European indentured servants to identify with other, better-off white people rather than with enslaved Africans with whom they had reason to make common cause.<sup>9</sup> Classic divide and conquer.

For me it's been wave upon wave of revelation of grievous layers of harm, of compounding effects over time. As Edward Baptist's book title states: *The Half Has Never Been Told*.<sup>10</sup> The fact that I needed reeducation, that we don't teach the full extent of this history in our schools, that what we do learn in school or elsewhere is largely mythologized, is just one more aspect of the distancing and the dissociation.<sup>11</sup>

And... I think it's not surprising, given human nature. Whether it's in our textbooks, or in the narratives we have about our family histories, no one wants to feel implicated. We don't want the shame of it, and we don't want to feel responsible for what our distant ancestors may have done. We want to be related to good guys, not bad guys. We want to be proud of, not ashamed of our country. I remember hearing a white parent quoted in a news story about curriculum conflicts in Arizona who said, "We're just tired of them teaching our kids what's wrong with America." My belief is that we can hold both pride and shame in healthier balance. The Philadelphian in me knows there is much to be proud of, as well as much to squarely acknowledge.

<sup>8</sup> Consider, for instance, Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York: W. W. Norton & Co, 2005).

<sup>9</sup> Jacqueline Jones, *A Dreadful Deceit: The Myth of Race from the Colonial Era to Obama's America* (New York: Basic Books, 2013).

<sup>10</sup> Edward E. Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014).

<sup>11</sup> For an invitation to white Americans to associate rather than dissociate see Rebecca Parker's essay: "Not Somewhere Else, But Here," <https://www.uua.org/re/tapestry/adults/btwwda/workshop7/handout2>

And I don't believe there's shame in not wanting to feel shame. Humans hate feeling shame. And that's because we *want to be* moral and good, and we want to be *seen* as moral and good. That's a good thing. But let's not let it keep us in denial.

Here's another layer: I've noticed in myself and in my fellow white Americans that we tend to imagine that black people are angry *at us*, and we don't think we deserve it, so we defend ourselves and people like us. But in my years of experience, black Americans are not angry at us as individuals, for the deeds of bygone ancestors who may have been complicit in large or small ways, but they are – and I would say rightfully – angry that we don't just drop all the defensiveness and protestations, and sign up to work with them, shoulder to shoulder, on tackling the legacies – the extensive and devastating racial disparities – that are still challenging our country today. I can attest that it can actually be liberating to let go of the defensiveness, and be open to the gift of mutual respect. My life has been incalculably enriched by stepping into a world of cross-racial reciprocity and connection that I didn't know was absent from my life until I was there in it. And, resultantly, I hope I've become a better partner in the work of racial justice.

White guilt is arguably the opposite of denial, defensiveness, or push back. It's a case of facing the horrors of the history and instead of an attachment to feeling good about one's people, it can be a full-blown shouldering of feeling really *bad* about one's people. But interestingly, it can still be “all about us” and our emotional turmoil and neediness. I've heard so many black Americans say, in essence: “Please get over the defensiveness *and* please get over the guilt!” (“Get over yourself!” one might add). I've heard church people say, “You are already forgiven in Christ, so come on along.” There is actually an incredible generosity of spirit that I've witnessed. It more than deserves to be returned in kind.

I love that people are starting to apply Elizabeth Kubler-Ross's five stages of grief to the process we white folks often go through as we are attempting to face the history and legacy of slavery. Denial, anger, bargaining, depression, acceptance. Acceptance opens the door to healthy, and shared *grief*, which is different, and more productive, than white guilt. It is more compassionate, and less self-absorbed.

Healthy and shared grief – lamentations – open the door to sober, sacred, respectful, creative, collective conversations about how to make things right, as best we can.

An H.R. 40 commission would help us begin by telling the truth as a country. In the language of recovery, it would constitute a “searching and fearless moral inventory.” If we are willing to stand in the truth and the shared grief, I hope and pray that public will would naturally emerge to engage in the other part of the commission's mandate: a much-needed, healthy debate among people of good will about apology, repair, remedies, reparations, restorative justice. The details of what that could look like can come as part of the process, and don't need to be pre-determined. Reasonable people can and will disagree.

The good news is that there are already so many communities, all around the United States, that have taken up the work of facing their hard history, grappling collaboratively with what to do about it, and creating transformative programs. There are countless powerful efforts already underway in the civic and religious sectors that can be a source of ideas and inspiration for a Commission – whether they are focused on making the history more visible, at holding dialogue, or working for racial repair, equity and justice. A brief sampling of some of the efforts that I am most familiar with include:

- Coming to the Table (a network of descendants of the enslaved and the enslavers in deep dialogue and with a reparations working group guide) (<http://comingtothetable.org/>);

- The W.K. Kellogg Foundation's Truth, Racial Healing, and Transformation network of local initiatives (<https://healourcommunities.org/>);
- The atonement, racial healing and racial justice work being done in the Episcopal Church (<https://www.episcopalchurch.org/racial-reconciliation>), the Southern Baptist Convention, and many other Protestant denominations, as well as the National Council of Churches;
- The Universities Studying Slavery association and their member universities (<https://slavery.virginia.edu/universities-studying-slavery/>);
- The Middle Passage Ceremonies and Port Markers Project (<https://www.middlepassageproject.org/>);
- The Slave Dwelling Project (<https://slavedwellingproject.org/>);
- Hope in the Cities/Initiative of Change in Richmond, Va. (<https://us.iofc.org/hope-in-the-cities>);
- The Teaching Hard History initiative of Teaching Tolerance (<https://www.tolerance.org/frameworks/teaching-hard-history/american-slavery>).

The baseline for me, given all that I've learned, is that I'm clear that there is a national debt that is owed to descendants of enslaved Africans. I would ask my fellow Americans who are inclined to disagree to suspend judgment, to please reconsider, and to be open to the good that can come of a national reckoning process via H.R. 40. We Americans have a history of always seeking to be and to do better. This is a sacred opportunity to do just that.

I'll close with a quote from African American columnist Leonard Pitts Jr., from a column he wrote in 1998, which was the year I decided to initiate our family process. It's his answer to a 17-year-old white girl who asked: "What do you want from me?" His answer has been my touchstone ever since:

Don't hate black history, if only because it's your history, too. It exists not to accuse you or to shame you. It simply exists. And you, every bit as much as I, have to make peace with it. Understand that this is sacred ground and it hurts to walk here. But at the same time, I "need" to walk here, need the strength, the sense of purpose, the knowledge of self, that walking here imparts. ... What do I want from you? I want you to be my sister and to walk here with me. I know it's a hard walk. I know it causes you pain. But this much I also know: If ever we learn to tread this ground together, there's no place we can't go.<sup>12</sup>

<sup>12</sup> <https://www.miamiherald.com/opinion/opn-columns-blogs/leonard-pitts-jr/article225293430.html>

Mr. COHEN. Thank you, Ms. Brown.

And I would note that the Capitol was built with slave labor. And because of the work of Representatives Jesse Jackson, Jr., and Zach Wamp, the new Visitors Center is named Emancipation Hall in recognition.

Mr. Coleman Hughes is a columnist for Quillette and has worked as a freelance opinion writer since January 2018. He has had pieces published in The New York Times, the Wall Street Journal, the National Review, the City Journal, and The Spectator. He is studying philosophy at Columbia University. And we appreciate your attendance, and you are recognized for 5 minutes, sir.

#### STATEMENT OF COLEMAN HUGHES

Mr. HUGHES. Thank you, Chairman Cohen, Ranking Member Johnson, and members of the committee. It is an honor to testify on a topic as important as this one. Nothing I am about to say is meant to minimize the horror and brutality of slavery and Jim Crow. Racism is a bloody stain on this country's history, and I consider our failure to pay reparations directly to freed slaves after the Civil War to be one of the greatest injustices ever perpetrated by the U.S. Government.

But I worry that our desire to fix the past compromises our ability to fix the present. Think about what we are doing today. We are spending our time debating a bill that mentions slavery 25 times but incarceration only once in an era with no Black slaves but nearly a million Black prisoners; a bill that doesn't mention homicide once at a time when the Center for Disease Control reports homicide as the number one cause of death for young Black men.

I am not saying that acknowledging history doesn't matter. It does. I am saying there is a difference between acknowledging history and allowing history to distract us from the problems we face today.

In 2008, the House of Representatives formally apologized for slavery and Jim Crow. In 2009, the Senate did the same. Black people don't need another apology. We need safer neighborhoods and better schools. We need a less punitive criminal justice system. We need affordable healthcare. And none of these things can be achieved through reparations for slavery.

Nearly everyone close to me—nearly everyone close to me told me not to testify today. They told me that even though I have only ever voted for Democrats, I would be perceived as a Republican and, therefore, hated by half the country.

Others told me they that, by distancing myself from Republicans, I would end up angering the other half of the country. And the sad truth is that they were both right. That is how suspicious we have become of one another. That is how divided we are as a Nation.

If we were to pay reparations today, we would only divide the country further, making it harder to build the political coalitions required to solve the problems facing Black people today. We would insult many Black Americans by putting a price on the suffering of their ancestors. And we would turn the relationship between Black Americans and White Americans from a coalition into a

transaction, from a union between citizens into a lawsuit between plaintiffs and defendants.

What we should do is pay reparations to Black Americans who actually grew up under Jim Crow and were directly harmed by second class citizenship, people like my grandparents. But paying reparations to all descendants of slaves is a mistake. Take me for example. I was born three decades after the end of Jim Crow into a privileged household in the suburbs. I attend an Ivy League school. Yet I am also descended from slaves who worked on Thomas Jefferson's Monticello Plantation. So reparations for slavery would allocate Federal resources to me but not to an American with the wrong ancestry even if person is living paycheck to paycheck and working multiple jobs to support a family. You might call that justice. I call it justice for the dead at the price of justice for the living.

I understand that reparations are about what people are owed regardless of how well they are doing. I understand that. But the people who are owed for slavery are no longer here, and we are not entitled to collect on their debts. Reparations by definition are only given to victims. So the moment you give me reparations, you have made me into a victim without my consent. Not just that, you made one-third of Black Americans who poll against reparations into victims without their consent. And Black Americans have fought too long for the right to define themselves to be spoken for in such a condescending manner.

The question is not what America owes me by virtue of my ancestry. The question is what all Americans owe each other by virtue of being citizens of the same Nation. And the obligation of citizenship is not transactional. It is not contingent on ancestry. It never expires, and it can't be paid off. For all these reasons, bill H.R. 40 is a moral and political mistake.

Thank you.

[The statement of Mr. Hughes follows:]

Coleman Hughes

Written testimony to House Subcommittee on the Constitution, Civil Rights, and Civil Liberties

Submitted on 6/17/2019

Thank you Chairman Cohen, ranking member Johnson, and members of the committee. It's an honor to testify on a topic as important as this one.

Nothing I'm about to say is meant to minimize the horror and brutality of slavery and Jim Crow. Racism is a bloody stain on this country's history. I consider our failure to pay reparations directly to freed slaves after the Civil War to be one of the greatest injustices ever perpetrated by the U.S. government.

But I worry that our desire to fix the past compromises our ability to fix the present. Think about what we're doing today. We're spending our time debating a bill that mentions slavery 25 times but incarceration only once, in an era with zero black slaves but nearly a million black prisoners—a bill that doesn't mention homicide once, at a time when the Center for Disease Control reports homicide as the number one cause of death for young black men. I'm not saying that acknowledging history doesn't matter. It does. I'm saying that there's a difference between acknowledging history and allowing history to distract us from the problems we face today.

In 2008, the House of Representatives formally apologized for slavery and Jim Crow. In 2009, the Senate did the same. I'm not against apologies. But black people don't need another apology. We need a less punitive criminal justice system. We need safer neighborhoods and better schools. We need affordable health care. And none of these things can be achieved through reparations for slavery.

Nearly everyone close to me told me not to come today. They said that even though I've only ever voted for Democrats, I'd be perceived as a Republican and therefore hated by half the country. Other people told me that distancing myself from Republicans would end up alienating the other half of the country. And the sad truth is that they were both right. That's how suspicious we've become of one another. That's how divided we are as a nation.

If we were to pay reparations today, we would only divide the country further, making it harder to build the political coalitions required to solve the problems facing black people today; we would insult many black Americans by putting a price on the suffering of their ancestors; and we would turn the relationship between black Americans and white Americans from a coalition into a transaction—from a union between citizens into a lawsuit between plaintiffs and defendants.

What we should do is pay reparations to black Americans who actually grew up under Jim Crow and were *directly* harmed by racist policies like redlining—people like my Grandparents.

But paying reparations to *all* descendants of slaves is a mistake. Take me for example. I was born three decades after Jim Crow ended into a privileged household in the suburbs. I attend an

Ivy League school. I grew up with programs designed to uplift black people—from Affirmative Action in education to diversity and inclusion programs in the labor market. Yet I'm also descended from slaves who worked on Thomas Jefferson's Monticello plantation. So reparations for slavery would allocate federal resources to *me* and not to an American with the wrong ancestry—even if that person is living paycheck to paycheck and working multiple jobs to support a family. You might call that justice. I call it justice for the dead at the price of justice for the living.

The question is not what America owes *me* by virtue of my ancestry; the question is what all Americans owe each other by virtue of being citizens of the same nation. And the obligation of citizenship is not transactional. It can't be paid off. It's not contingent on your ancestry. And it never expires.

Reparations for slavery would keep us stuck in the past and distracted from the present; it would solve none of the major problems facing black Americans today; it would waste resources on people like me who don't need them, and most importantly, it would make our obligation to our fellow Americans, which should be ongoing and unconditional, into a lawsuit that can be settled once and forgotten forever. For all these reasons, bill H.R. 40 is a moral and political mistake. Thank you.

Mr. COHEN. Thank you, Mr. Hughes.

Chill, chill, chill, chill. He was presumptive, but he still has a right to speak.

Mr. Burgess Owens is recognized.

Every witness and everybody here should be treated with respect. And please do so.

Mr. Burgess Owens is an author and a retired professional football player for the New York Giants and the Oakland Raiders. He is the author of a number of books, including the 2016 book "Liberalism or How to Turn Good Men Into Whiners, Weenies and Wimps," which offers a history and analysis of the Black experience in the United States. He attended the University of Miami, home of the Ibis, blow Hurricane, blow. Mr. Owens, you are recognized for 5 minutes.

#### STATEMENT OF BURGESS OWENS

Mr. OWENS. Thank you so much for this opportunity.

I am going to take a different tack from beginning. We are at this point, this is not about Black and White, rich or poor, blue collar, White collar. We are fighting for the heart and soul of our Nation. We have a very, very special country that started with Judeo-Christian values that allowed every single generation become better than the last. And that has not ended. It has not stopped until now. We are telling our kids a little bit something different, that they don't have the opportunities that we had.

I want to talk about some ideologies. When I talk about them, I am not talking about people. People change. I used to be a Democrat until I did my history and found out the misery that that party brought to my race. So I talk with the ideologies, ideologies don't change; people do. We are fighting for the heart and soul of our Nation against socialism and Marxism and the evil that it has brought to us and the stealing of our history. Karl Marx said it best, the father of socialism, an atheist, anti-Semite and a blatant racist, yet we teach his philosophy in our school systems today. He said the first battleground is the rewriting of our history. You steal our history, you steal our pride in our past, appreciation for our present and a vision for our future. And every single urban city in our country is now experiencing that loss.

Real quick history because these are things we are not taught. I am blessed to be a great-great-grandfather of Silas Burgess. He came here in the belly of a slave ship, sold in Charleston, South Carolina, with his mother to the Burgess plantation, an evil, evil man that drove my great-great-great grandmother either into leaving her family, her kids, or committing suicide. I don't know. She disappeared. But Silas at the age of 8 was blessed to be surrounded by men who believed in freedom, even though they were shackled, they escaped. They went the southern route of the underground railroad, facilitated by White and Mexican Americans. And made his way south to Texas, end up being a successful entrepreneur, owned 102 acres of land paid off in 2 years. Started the first Black church, the first Black elementary school, pillar of his community, 18 kids, Christian, Republican. His first son was Alpha Omega, proud American, an example of what happens when any race, any culture is given hope, opportunity, and freedom. It didn't end there,



by the way. The history of our Black country, of our Black America has been stolen from us for decades, almost over a century. Booker T. Washington 1882, began Tuskegee University. By 1905 it was producing more self-made Black millionaires than Harvard, Yale, and Princeton combined. The '40s, '50s, and '60s, it was a Black community that led our country in the growth of the middle class, led our country in terms of the men committed to marriage—over 70 percent; now it is 30 percent—led our country in terms of community business ownership 40 percent; now it is 3.8 percent. Men matriculating college. We now have more—a higher percentage of men incarcerated than in college.

By the way, my degree is biology. I learned a long time ago that slavery is not a gene in the DNA helix. It is our actions. It is our attitude. It is our belief. I do not believe in reparations because what reparations does, it points to a certain race, a certain color, and it points to them as evil and points the other race, my race, as one that—it not only becomes racist, but they are also beggars.

I do believe in restitution. Let's point to the party that was part of slavery, KKK, Jim Crow, that has killed over 40 percent of our Black babies, 20 million of them. The State of California, 75 percent of our Black boys cannot pass standard reading and writing tests, a Democratic State. So yes let's play restoration—let's play restitution. How about a Democratic Party pay for all the misery brought to my race, and those who, after we learn our history, decide to stay there, they should pay also; they are complicit. And every White American, Republican or Democrat, that feels guilty because of your White skin, you should need to pony up also. That way we can get past this reparations and realize that this country has given us greatness. Look at this panel. It doesn't matter how we think. It doesn't matter our color. We have become successful in this country like no other because of this great opportunity to live the American Dream. Let's not steal that from our kids by telling them they can't do it.

Thank you.

[The statement of Mr. Owens follows:]

**Written Testimony of Burgess Owens  
before the  
House Subcommittee on  
the Constitution, Civil Rights, and Civil Liberties  
Hearing on  
“H.R. 40 and the Path to Restorative Justice”  
June 19, 2019**

My great-great-grandfather Silas Burgess came to America shackled in the belly of a slave ship. He was sold on an auction block in Charleston, S.C., to the Burgess Plantation. Orphaned by age 8, he was fortunately surrounded by elder slaves who, though physically chained, mentally envisioned themselves as free men. They escaped, taking young Silas with them, making their way to West Texas via the southern route of the Underground Railroad. Silas became a risk-taking entrepreneur and the owner of 102 acres of farmland, which he cultivated and paid off within two years. I proudly carry the name of my first American ancestor—who, like millions of others drawn or brought to our country, struggled past overwhelming obstacles to live the American Dream. Silas founded the first black church and first black elementary school in his town. He was a proud Republican, a devout Christian, the patriarch of a large family, and a pillar of his community. He was proud and industrious and taught his children to be the same.

Now, because of him, a bunch of Democratic presidential hopefuls want to give me money. Never mind that like Silas, I am an entrepreneur who has lived the American dream—having received a world-class education, built businesses, raised a remarkable family and, unlike most white Americans, earned a Super Bowl ring. Because of work I’ve never done, stripes I’ve never had, under a whip I’ll never know, Kamala Harris, Beto O’Rourke, Elizabeth Warren and others want to give me free stuff. Never mind that it will be taken from others, who also dreamed, worked and sacrificed to earn it.

If I were to guess what my great-great-grandpa Silas would think, it would be no different than my KKK era successful farmer grandfather or my Jim Crow era successful college professor, researcher, entrepreneur and youth mentor Dad. They would all be ashamed of the prevalence and acceptance of a demeaning victimhood within their proud race.

At the core of the reparation movement is a divisive and demeaning view of both races. It grants to the white race a wicked superiority, treating them as an oppressive people too powerful for black Americans to overcome. It brands blacks as hapless victims devoid of the ability, which every other culture possesses, to assimilate and progress. Neither label is earned.

The reparations movement conveniently forgets the 150 years of legal, social and economic progress attained by millions of American minorities. It also minimizes the sacrifice that hundreds of thousands of white Americans and a Republican president made laying down their lives to eradicate slavery. I think grandpa Silas would believe that this historical loss of life alone is payment in full. Every proud, contributing and thankful generation of black Americans since would think the same.

The reparation movement also reinforces a spiritual view of racial relationships that is antithetical to America's Judeo-Christian foundation. It defies the ideals of forgiveness and second chances and scorns individual accountability. Proponents of reparations act as though black Americans are incapable of carrying their own burdens, while white Americans must bear the sins of those who came before.

The idea of reparations demeans America's founding ideals. A culturally Marxist idea promoted by socialists, reparations denies the promise granted by an omnipotent God that we are truly equal and that regardless of race we are capable of overcoming obstacles and past injustices. By indoctrinating others into this cynical ideology, an elitist class of progressives exploits past differences and ensures that they will divide us into the future.

It is their divisive message that marks the black race as forever broken, as a people whose healing comes only through the guilt, pity, profits and benevolence of the white race. This perception is playing out on our nation's college campuses, where young white Americans claim privilege due to their skin color and young black Americans, with no apparent shame, accept this demeaning of their own color as truth.

As they repeat this mantra, they seem unaware that this perception was also shared by the 1960s Southern white supremacists of my youth. They have accepted the theory that skin color alone is capable of making one race superior to the other—that through an irremovable white advantage, with no additional effort, values, personal initiative, honesty or education, white Americans will succeed, while black Americans will fail. At its very core this represents the condescending evil of racism.

It certainly does not represent black America's potential. Despite the Great Society programs that introduced all sorts of perverse, dependency-inducing, and antifamily incentives into the black community some 50 years ago, 40% of black households today live the middle-class American Dream according to census data, making between \$35,000 and \$99,999. Many rank among our nation's most powerful and prestigious. There are tens of thousands of black Americans among our nation's top 1% income earners.

The journeys of these Americans to wealth and prominence vary, like those of their white counterparts, but many benefitted from having ancestors who embraced the opportunities their country provided and who left behind a legacy of proud, productive, patriotic and successful families. Why should these people be given a handout? Grandpa Silas never believed anyone owed him success. Why should I believe white Americans owe me anything?

Socialist historians have for generations hidden the contributions and success of the black community in America. This has cost us our pride in our past, stripped us of our appreciation for the present, and left us lacking of a vision for our future. The message

from our past great black generations is simple: Character cannot be bought and will never allow itself to be diminished by bribery. .

Grandpa Silas's life expectancy was 36. Mine is almost 76. According to a recent report from the Centers for Disease Control and Prevention, by living past 65, my life expectancy may be longer than whites of the same age. Which I guess is good, if reparations advocates are going to make me spend grandpa's money.

Mr. COHEN. Our next witness will be the Right Reverend Eugene Taylor Sutton. He is Bishop of the Episcopal Diocese of Maryland, a position held since 2008, previously served as canon pastor of the Washington National Cathedral and director of the Cathedral Center for Prayer and Pilgrimage. Bishop Sutton has been a leader of retreats and conferences on nonviolence, reconciliation in the environment, and has taught at New Brunswick at Vanderbilt University Divinity School. He is a graduate of Hope College. He earned his master of divinity degree at Western Theological Seminary, completed his Anglican studies at the University of the South School of Theology. Reverend Sutton, you are recognized.

**STATEMENT OF THE RIGHT REVEREND EUGENE TAYLOR  
SUTTON**

Rev. SUTTON. Thank you, Mr. Chairman.

I am here today as a bishop of the Episcopal Church, representing for many a perspective of the faith community in favor of the proposed legislation on reparations.

I might say right at the outset the debate we are having here this morning and the witness of my colleagues here points to the need to establish a commission. This debate needs to happen. And we need to entertain proposals for how we redress the evils of our past. If we don't address those problems in an open and fair way, then we are continuing to be lost as a Nation.

By the way, in terms of politics, some of my friends are for Democrats; some of my friends are for Republicans. And as a religious leader, I am for my friends.

I want to say that, last month, the Episcopal Diocese of Maryland that I lead, 110 congregations across most of the State of Maryland, voted unanimously for the affirmation of reparations of our diocese, knowing that so many of the resources of our diocese was gained from uncompensated labor of enslaved persons. One hundred percent, not a single negative vote from a diocese that is over 90 percent White, encompassing people from western Maryland, who have their own history of injustices, coal miners and others, southern Maryland, suburbs, and city people. How and why did that happen? If it could happen in that diocese, I am convinced it can happen in America.

It happened because when the subject with the issue of reparations are fairly and fully explained, Americans want to do the right thing. That issue of reparations is mired in emotion. It is often mischaracterized and certainly largely misunderstood. It wells up an emotional response in people to the word, but when you break it down on what it is actually to do, we find that many of those emotions dissipate.

Why is there a need for it? Let me tell you a story of a friend of mine. She and her husband—she was a pastor of a congregation. A long time ago, she told this story of, when their child was young, there was a young girl, a young teenager in the congregation who knew they had a need for babysitting, and she said, "I will sit for your son tonight." And then she volunteered again. And then my friend and her husband started calling on her more and more, "Would you do this? Would you do this?" Never was the issue of money brought up. They knew she volunteered at first, but she the

teenager wanted to do this for that more powerful person in that church. That went on for years.

After a while, my friend and her husband thought this was unfair; this actually was an injustice toward her. They wrote her a letter then now in college, and they said, "We believe, we have come to know that we—that this was an injustice. We are sorry. We want to make amends." The young woman wrote back, "Thank you." And then they worked out a way that she could be compensated for her years of work. Their relationship was reconciled. They could look each other in the eye in a way that they could not before because that wall of injustice of that past got in the way of their current relationship. That is what reparations is. And that is what our Nation has failed to do for the last 120 years.

Reparations quite simply means to repair that which has been broken. It is not just about monetary compensation. An act of reparation is an attempt to make whole again, to restore, to over atonement, to make an amends, to reconcile for a wrong or an injury. It is not the transfer of money from White people to Black people. It is what this generation, our generation, will do to repair the broken pieces of the racial mess that we have all inherited.

As an African American who is a descendant of slaves who were never compensated, I can honestly say to all White people: We have forgiven you. We forgave this country a long time ago, and we continue to forgive every day, but we are not reconciled. To reconcile means to put back together again that which has been broken.

After the hard-fought abolition of slavery, there was a fateful denial in our Nation of reparations for freed African American people. Even though, in many instances, White plantation owners received reparations in the form of compensation for the losses they incurred from the Civil War and the end of slavery. This Nation is not—we know about reparations. It is just that it has never been done for those who deserved it the most.

Finally, I am a Christian. That means I hold to the Holy Scriptures of the Old and New Testaments as my guideposts and to the teachings of Jesus. The Bible mandates that leaders are to be held accountable for the fair and equal treatment of every inhabitant in the land. All of us have been taught to love everyone, regardless of their race and human condition. However, we must come to acknowledge that there can be no love without justice, and there can be no justice without some form of repairing an injustice.

I hear from many of my White friends, White brothers and sisters, this question: What do Black people want? Haven't we done enough? What do they want? I want to turn the question around. What do you want? What kind of America do you want to live in? If you are happy with the state of race relations now, don't do anything on this issue. But if you want a reconciled nation, let's get this commission and let's entertain those proposals.

[The statement of Rev. Sutton follows:]

**Testimony on Reparations Bill H.R. 40**

Given by the Right Rev. Eugene Taylor Sutton

Bishop of the Episcopal Diocese of Maryland

Before the U.S. House of Representatives Judiciary subcommittee on the Constitution, Civil Rights,  
and Civil Liberties

June 19, 2019

Good morning. I am here today as a bishop of the Episcopal Church, representing for many a perspective of the faith community in favor of the proposed legislation on reparations.

The issue of reparations is mired in emotion; it is often mischaracterized and certainly largely misunderstood. It is a complex subject that involves economic, political and moral dimensions that are difficult to grasp without a willingness to engage more deeply than having a quick emotional response to the word. The issue highlights the racial divide among us, creates varying levels of resentment and suspicion, and accentuates a pain that has long plagued our country since its founding.

Everyone living in our great nation has inherited a mess created by the institution of slavery. None of us caused this brokenness, but all of us have a moral responsibility to fix it. For generations the bodies of black people did not belong to themselves, but were bred, used, and sold for the purpose of attaining wealth. Our nation prospered from this evil, and many of our institutions - including, sadly, the Church - profited as well. However, as we have learned from both builders and moral leaders, a structure with a broken foundation cannot hope to stand. It must be repaired.

Reparations, quite simply, means to repair that which has been broken. It is not just about monetary compensation. An act of reparation is an attempt to make whole again, to restore; to offer atonement; to make amends; to reconcile for a wrong or injury. It is NOT the transfer of money from white people to black people; it is what this generation will do to repair the broken pieces of the racial mess we have all inherited from the past.

This is a spiritual as well as a political wisdom. As it is written in Scripture from the ancient prophet Isaiah:

*"If you remove the yoke from among you, the pointing of the finger, the speaking of evil...[then] The Lord will guide you continually, and satisfy your needs in parched places...Your ancient ruins shall be rebuilt; you shall raise up the foundations of many generations; you shall be called the repairer of the breach, the restorer of streets to live in." (Isaiah 58:9-12)*

Our own commitment to this vision of being "repairers of the breach" will require honest reflection and a devotion to reconciliation. Forgiveness alone is but one step in the long journey to reconcile our past with the present. As an African American who is a descendant of slaves who were never compensated for their centuries of involuntary servitude, I can honestly say to all white people: we've forgiven you. We forgave this country a long time ago, and we continue to forgive every day! But we are not *reconciled*. To reconcile means to join persons, things or relationships that are apart but that should be together. In order to do that, we need to *repair* the broken places and wounds that we have all inherited from the degrading treatment of our fellow human beings.

After the hard-fought abolition of slavery, there was a fateful denial in our nation of reparations for freed African American people for their centuries of undeserved bondage, even though in many instances white plantation owners received reparations in the form of compensation for the losses

they incurred from the Civil War and the end of slavery. Racism and greed fueled that basic injustice, and those attitudes have poisoned race relations ever since. From the implementation of Jim Crow laws, lynching, segregation, redlining, job discrimination and unequal public school education, we see that we have not fully reckoned with our past. We are not yet fully the beloved community that God intends for us to be and that Martin Luther King, Jr. spoke to in his dream for America.

We can all celebrate the tremendous strides that have been made in racial attitudes in our nation, and we are very proud of the accomplishments of the many black individuals who have overcome great odds to achieve success. But for the millions of descendants of slaves who are trapped in a pernicious cycle of hopelessness, poverty and rage due to their real experience of racial segregation, redlining, inferior schools and the like, the widespread assumption that everyone can pull themselves up by their own bootstraps is a lie. They know that the odds are against them on so many fronts: they cannot change their environment, and they cannot change the color of their dark skin.

All of these factors have played into creating a lack of power and a sense of hope for black and brown people. This lack is a social problem; it goes beyond an individual's character and will. Only a society committed to making reparation for these evils can heal these problems.

I am a Christian, and that means that I hold to the holy Scriptures of the Old and New Testament as my guidepost, and to the teachings of Jesus. The Bible mandates that leaders are to be held accountable for the fair and equal treatment of every inhabitant in the land. All of us have been taught to love everyone regardless of their race and human condition. **However, we must come to acknowledge that there can be no love without justice, and there can be no justice without some form of repairing an injustice.** I believe America is now at the point of being able to do this long-overdue work.

In 2006, The Episcopal Church at its triennial church-wide General Convention passed three resolutions that 1) apologized for its complicity in benefitting from and justifying the institution of slavery, and called for the redoubling of efforts to combat the evil of racism, 2) endorsed the principle of restorative justice in addressing these evils, and 3) affirmed its commitment to become a transformed, anti-racist church and urged the Church at every level to call upon Congress and the American people to support legislation to study proposals for monetary and non-monetary reparations to the descendants of the victims of slavery. (*See attached appendix.*)

I am here today to give witness to those actions. I also commend to you the good work of Katrina Browne, who worked tirelessly to get those resolutions passed. She is a descendant of a prominent New England family that benefitted directly from the African American slave trade. She also is appearing today to tell her story and give testimony in favor of reparations.

Finally, I know that justice can take a very long time. We've been at this issue of racial justice since our nation's birth. Today, making restitution is our generation's task. We look to you, our legislators, to lead us in this journey. Please do not fail us again. Thank you.



**Appendix B - Biblical and Theological Views of Slavery**

Speaking to God's People who had long been dispossessed and in exile, the prophet Isaiah was called to offer the people God's message of hope:

Is not this the fast that I choose:

to loose the bonds of injustice,

to undo the thongs of the yoke,

to let the oppressed go free,

and to break every yoke?

Is it not to share your bread with the hungry,

and bring the homeless poor into your house;

when you see the naked, to cover them,

and not to hide yourself from your own kin?

Then your light shall break forth like the dawn,

and your healing shall spring up quickly;

your vindicator shall go before you,

the glory of the Lord shall be your rearguard.

Then you shall call, and the Lord will answer;

you shall cry for help, and he will say, Here I am.

If you remove the yoke from among you,

the pointing of the finger, the speaking of evil,

if you offer your food to the hungry

and satisfy the needs of the afflicted,

then your light shall rise in the darkness

and your gloom be like the noonday.

The Lord will guide you continually,

and satisfy your needs in parched places,

and make your bones strong;

and you shall be like a watered garden,

like a spring of water,

whose waters never fail.

Your ancient ruins shall be rebuilt;

you shall raise up the foundations of many generations;

you shall be called the repairer of the breach,

the restorer of streets to live in.

*Isaiah 58: 6-12*

God's people were not being called to a pious fast to repent, but instead, they were called to repair their relationships, and to amend the responsibilities they had long neglected. The hope was that if they would commit to freeing the oppressed, to sharing with those who had nothing, and to quit their grumbling and judgment, their lives would be renewed. They would be called "repairers of the breach."

We're also told by the prophets that Israel had become exiled because they had not cared for those who were most vulnerable in their society; all they had been given as signs of God's promises to Israel was lost to them because they had not cared for those who needed it most. There were many places in their society that had been neglected, broken and breached, which desperately needed mending.

In his book *The Prophets*, the late, Civil Rights era advocate Rabbi Abraham Heschel gives us some context for the depth of concern that we hear from God's prophets. Heschel points out that the problems that the prophets were overwrought about were things that seem like such minor issues to us today. He even muses about whether or not God's indignation and anger, which the prophets communicated, was disproportionate to the cause of the anger. However, Rabbi Heschel is quick to add out that we are witnesses to the "callousness and cruelty of man," but that our hearts try to forget and to silence our consciences so we don't have to feel guilty over the weight of its burden. Prophets feel fiercely; they feel the silent agony so many in our society suffer; they give the poor a voice; they make us hear God's deep anger and sadness at our lack of care for one another.

Maybe it seems unconscionable that the Church could be complicit, if not an active agent, in the institution of slavery. And yet the Church, the Episcopal Church included, was often a source for the justification and perpetuation of slavery. Through particular biblical teachings and the maintenance of the social norms of the day, the Church supported and greatly benefited from the institution of slavery. Given the message of liberation and justice that we find echoed throughout the Gospels and the rest of Scripture, we may wonder how this complicity was, and in many ways, remains possible.

We must look to both the Old and New Testaments to gain a better understanding of the difference between biblical slavery and institutionalized slavery as we know it from our country's history. People have cited slavery's presence in the scripture as justification for the institution; however, it is important to take the time to discern the different types of slavery described in scripture versus the heinous and deplorable type of slavery perpetrated by Europeans and Americans.

Slavery was not a part of God's original plan or creation order. Instead, slavery can be seen as a product of the fall of man; man's disobedience to God, His law, and His word. The law given to Moses included ordinances that provided parameters for the treatment of slaves, which were for the benefit of both master and slave. Ultimately, God desires that all his people and nations are liberated. Biblical slave laws reflect God's redemptive desire to this extent.

**We know that Mosaic law permitted some types of voluntary slavery:**

- Voluntary servitude or indentured servants: These were individuals who needed assistance, could not pay their debts or needed protection. Under biblical law, they were allowed to become indentured servants. (Ex. 21:2-6; Deut. 15:12-18)
- Voluntary permanent slaves (bondservant): An indentured servant could choose to become a permanent slave. The law recognized that some people wanted the security of being taken care of and allowed this provision. (Ex. 21:2-6; Deut. 15:16-17)
- A thief or criminal making restitution: A thief or criminal who did not have the means to make restitution could be sold as a slave and remain in servitude until enough work was done to pay for the amount it was determined he owed. (Ex. 22:1,3)
- Foreigners (unbelievers) from neighboring nations could be made permanent slaves (Lev. 25: 44-46). However, biblical slave laws protected and eventually redeemed these slaves. Since they were allowed to become part of the covenant and a part of the family, this even gave them opportunity to receive an inheritance.

Our understanding of the word slavery in light of the American historical context comes from a race-based, chattel slavery system in which the slave was the property of a master and lacked any legal rights. This type of slavery is not supported biblically. In fact, Mosaic laws strictly forbade involuntary servitude and/or slavery.

**Exodus 21:16 / Deuteronomy 24:7 / Deuteronomy 23:15-16**

The Greek word *doulos* can be translated slave, sometimes servant or bondservant, and it often referred to people who had a surprising level of legal and social status in the 1<sup>st</sup>

Century, Greco-Roman period. Most weren't slaves from birth or for their entire life. It was also not because of their race.

**Further evidence of the difference between biblical slavery and American slavery:**

- Hebrew slaves were to be freed after 6 years (Ex. 21:2).
- Most freed slaves were released with liberal pay (Deut. 15:12-15).
- Runaway slaves were to go free (Deut. 23:15-16).
- Excessive punishment of slaves was forbidden (Ex. 21:26-27; Lev. 24:17).
- Slaves could be brought into the covenant and then partake of the Passover meal (Ex. 12:43-44 / Gen. 17:12-13). They could also eat of "holy things" (Lev. 22:10-11).
- Slaves had some rights, position in the home and could share in the inheritance (Gen. 24:2 / Prov. 17:2).
- Slaves were to rest on the Sabbath (Ex. 20:8-11)
- There were slave laws for the protection of females (Exodus 21:4-11).

### **APPENDIX C - Power and Powerlessness - Psychological Ramifications and the Future**

The descendants of the slaves in our country, as a group, still live today without power. There are a number of dynamics that underlie this powerlessness but a particularly important one is the way white people walk in the world. In general, there is an assumption that white people can go almost anywhere; that they will be accepted almost anywhere; and that white customs and norms are the ones to adhere to. All of those feelings give white Americans a sense of power – a sense of being comfortable in the world. Perhaps, there is not an awareness of this power because white people have lived with it since Europeans' began settling on this continent. The reality is that the very whiteness of the dominant culture in our country creates a power inequality between the races.

The concepts of power and powerlessness have strong emotional impact for each of us. Most of us experience one or both during our lifetimes. The ability to have control of our lives can give us a general sense of security and well-being, while the inability to control our lives leads to a sense of powerlessness, to insecurity, to depression and anger. There are consequences to constantly feeling powerless; when we have limited agency, it is incredibly hard to build a life of success, security, and love. Repeated exposure to trauma can lead to post traumatic stress disorder, which only enhances the feeling of powerlessness, as well as further social isolation.

The natural human condition that leads to fear when we are exposed to something, or someone, that we believe threatens our way of life creates divisions among people. The part of the brain that leads to fight or flight fires up and causes us react to protect ourselves. The person, the unknown culture/race, or misunderstood situation can lead to discomfort and fear. The only way to change the situation is to develop relationships with each other.

It is relationship that leads us to vulnerability, understanding, love, and reconciliation. It is relationship that moves the powerless to a place of power and levels the playing field. Until we build those relationships, that community of love, there will continue to be a divide in this country that will only grow the disparity between those who have power and those who do not. Do we truly want to live in a country that continues the power struggle and injustice for black people? Do we continue to avoid the conversations and acts needed to make a difference in our world? Is it the way that Jesus wanted us to live? Hopefully, the answer to the first two questions is NO. We know that the answer to the latter question is a resounding NO.

It is the responsibility of a just society to recognize and repair the breach between those who have security and those who do not. As followers of Christ, we understand that to recognize all people as brothers and sisters is the beginning of creating the *Beloved*

*Community.* It is by working to listen to one other, to know one other, and to love one other that we can begin to set the firm foundations of holy equity.

And yet, the means to beginning such a sacred conversation requires immense trust and a kind of goodwill that has historically been anemic, if not empty. But if we are serious about the real work of reconciliation - of repair - then a kind of bravery and spiritual fortitude will be required of us that has, perhaps, been rarely seen in previous generations. I believe that we are very brave.

The term reparations has certainly become a "trigger word" for people when applied to matters concerning racial equity and justice. It is a term which conjures images of the Reagan-era "Welfare Queen," and ungrateful, unrepentant, and undeserving recipients of handouts. This stigma is set against the long held mythology of the "noble American worker," which has been idealized since Post-WWII America and taps into our sentiments of opportunity, self-reliance, and self-actualization that are part of the American ideal.

The subject of reparations is mired in emotion; it is often mischaracterized and certainly largely misunderstood. It is a complex issue that involves economic, political, and sociological dimensions that are difficult to grasp without a willingness to engage more deeply than having a quick emotional response to the word. The issue highlights the racial divide among us, creates varying levels of resentment and suspicion, and accentuates a pain that has long plagued our country since its founding.

Reparations, at its base, means to repair that which has been broken. It is not just about monetary compensation. An act of reparation is the attempt to make whole again, and/or to restore; to offer atonement; to make amends; to reconcile for a wrong or injury.

Isn't that our work in this broken world? As the Church, our primary mission is *"restoring all people to unity with God and each other in Christ"* (BCP, p. 855). This is our primary call and charge, and we take on this responsibility by praying, worshipping, proclaiming the Gospel and promoting justice and love. Our mission is further met by understanding and living out our Baptismal Covenant (BCP, p. 416), not only with one another, but in the world as witnesses to God's love for all of God's people.

With reference to the passage from Isaiah, then, I believe that the work of reparations (with regard to racial equity and justice) will require claiming/reclaiming a clear understanding of the word's meaning, as well as engaging some of the fears and anxieties which make such work and exploration complicated.

This is a task far too big for one person. Instead, I would like to offer a brief reflection on part of the Isaiah passage (see Appendix B), and then offer a few possibilities for engaging in some of this work.

In the passage from Isaiah, we read a message of hope to a people who have spent ages in exile. Israel is no longer a people who are their own. They have no 'place;' they have no sign

of God's promises; their identity has been plundered. However, into this history the prophet speaks of repairing the "breach." And while the signs and means of repair are works of mercy, equity, and compassion...all of us as readers of the message are left to infer what the "breach" actually is, and what caused it.

For those of us considering this idea of reparations, it would seem that we are given a multitude of ways to do works of mercy, justice, and compassion. And while this is an aid to the repair work to the breached wall, it doesn't seem to fully close the breach, and in many cases can leave workers frustrated, and even burned out. This, of course, is to say nothing of the problems of sustainability and the resources needed for such works.

And yet, all of this begs a question. "What exactly is the breach we are trying to repair?"

This passage from Isaiah is the scriptural foundation upon which the study of reparations is based. Isaiah reminds us that we, as people of faith, are called to meet the expectations and commandments of God; that as people of faith, we are baptized to keep God's covenant, which calls us to uphold and respect the dignity of all God's people; that as people of faith, we are called to be the "repairers of the breach" – any breach that separates and divides us from the love of God.

If the breach is labeled as simply racial injustice and racism, we already know that there would be those who would deny, and even detract from, the validity of such problems. So, the breach remains because people cannot agree that a breach exists. On the other hand, for those who would deny the breach, it might be assumed that their denial is related to the fact that they have rarely experienced the breach. It may well be that the denial of the disparity of racial equity is either too far from their personal experience, or relates to their own fear of addressing such a large problem.

Our discipleship with Christ calls for us to do much. Discipleship isn't always comfortable and it's certainly not without cost. It's the tension between the way we live our faith and the ideal to which we give witness. As faithful disciples, we are called to do more than just spread and share the Good News. We are also called to enter into the suffering of others and to help bear the weight of that suffering. The matter of reparations is not only weighty, but it bears many ugly heads that have long gone untamed and unchallenged.

Beloved, it will be by our lives and actions with regard to racial reconciliation that we will speak most prophetically to the world. In this way, we are writing an Epistle to the whole Church. This holy missive was begun through the action and dedication of our forebears in the Civil Rights era who were convicted by the Gospel imperative of Love and Justice. For as we know there can be no love without justice, and the followers of Jesus are called to love. But this is an imperative that finds its roots in that long-awaited hope that God had dreamed, even at the foot of Mount Sinai, where a battered bunch of freed slaves were becoming the called people of God. Through prayerful and inspired study, I believe we can do the work of repair. Through reparation, we can be leaders in the long-awaited process of

reconciliation that can lead to that dream that God has dreamed for us, a truly *Beloved Community*.

How do we look at reparations from a religious and/or Christian point of view?

How, then, do we as a diocese continue a genuine process of remembering, repairing, restoring, and reconciling ourselves to one another and to God? Primarily, we must be willing to study and dialogue on the theology, history and the multi-faceted issues associated with the highly-charged subject of reparations as it relates to the longstanding effects that the legacy of slavery has and continues to have in our country.

Reparations is more than just a matter of justice; it is a path that leads us to a place of truth with one another and with God. The Church, both nationally and right here in the Diocese of Maryland, continues to struggle, sometimes mightily, with acknowledging, repenting, or apologizing for its complicity in the legacy of slavery. Historical documents show how The Episcopal Church helped not only to establish but also to sustain systemic and institutionalized racism within the United States. The call of the Church today has to be a full commitment to becoming a transformed, anti-racist Church and to work towards healing, reconciliation, and providing a means of restoration of wholeness for all of God's people.

When we look at reparations in its simplest form, without any rhetoric attached, and we remind ourselves of the mission of the Church and how we are called to carry it out, we find that we are looking at a matter of justice. Justice requires that we seek and speak the truth with one another.

How might we look at providing reparations in a meaningful way that acknowledges our sinful past? While we can never fully repair the damages that have directly and indirectly impacted the black community, there are sure and positive steps that can be developed and implemented to help bring about wholeness and speak to our genuine desire for reconciliation.

The Sutton Scholars® High School Enrichment Program is a good example of a type of reparations. This program is designed to help inner city youth, particularly black youth. Its aim is to make their high school years a successful venture and to not allow them to fall prey to the many traps that confront them, or to live into the prevailing belief that they are "less than" others in our society. Programs such as this have proven to offer a significant contribution to helping young black youth stay out of the criminal justice system. These kinds of programs are invaluable in helping to repair the brokenness.

Other possibilities are:

- Improve existing housing assistance programs that help Black Americans move towards purchasing homes.



- Develop mixed-use housing that helps create communities of various socio-economic groups and not just low-income housing that creates communities that become alienated and labeled.
- Invest in existing communities by bringing desperately needed services such as grocery stores that are affordable; urgent care centers; community centers for not only youth, but all ages; pharmacies; green spaces/community gardens.
- Develop and implement meaningful job training programs that are partnered with corporations and local businesses for actual job placement. These programs must also include social services, such as case management and financial literacy programs, to increase opportunities for long-term employment and successful personal money management.
- Encourage seminaries to have at least a 30% ratio of faculty of color. As well, develop and implement non-traditional paths for ordination for black students who have been denied entry into seminary because of lack of undergraduate degrees but have the capacity for ministry. Finally, offer free or significantly reduced tuition for seminary training.
- Provide free tuition at community colleges for black Americans and reduced tuition at undergraduate schools and graduate programs.

These are some suggestions and you will have others. Is there a ministry you are passionate about that helps repair the inequalities in our society of the legacy of slavery? Do you work with organizations outside the Church that are doing this work? Do you have ideas for new ministries that would help build the *Beloved Community*?

#### **Questions for Reflection:**

1. With reference to the passage from Isaiah in Appendix B, the work of reparations (with regard to racial equity and justice) will require claiming/reclaiming a clear understanding of the word's meaning, as well as engaging some of the fears and anxieties which make such work and exploration complicated. What are your immediate emotional and intellectual responses to the word reparations? What is your understanding of the word and what other understandings might arise as you take time to explore its meaning biblically and more deeply?
2. What role do our Christian faith and the teachings of Jesus play in your answers to the above questions?
3. What do you think Jesus really meant when he commanded us to love our neighbors as ourselves? Be specific in your personal or group reflection.

4. Have you yourself or anyone in your family experienced the ripple effects of abuse from generations before? How has it affected you or your family in the present? If not a family member, do you know someone whose life has been made difficult because of psychological trauma stemming from past generations? Do you think there is a parallel to the effects of slavery on present generations? Why or why not?
5. Have you or anyone you know ever had your identity stolen or denied in any way? How does that make you feel? Have you ever been in a position where you thought you were not as good as the others around you? Has that been pointed out? How did that make you feel?
6. What is your first memory or experience of injustice in your life or the life of the world?
7. Do you think it is the responsibility of a just society to recognize and repair the breach between those who have security and those who do not? Why or why not?
8. Do you believe that as faithful disciples, we are called to do more than just spread and share the Good News?
9. As disciples, are we also called to enter into the suffering of others and to help bear the weight of that suffering? Why or why not? What do you think Scripture has to say about this?



**Resolution Number:** 2006-A123  
**Title:** Study Economic Benefits Derived from Slavery  
**Legislative Action Taken:** Concurred as Amended  
**Final Text:**

*Resolved, That the 75th General Convention of The Episcopal Church declare unequivocally that the institution of slavery in the United States and anywhere else in the world, based as it is on "ownership" of some persons by other persons, was and is a sin and a fundamental betrayal of the humanity of all persons who were involved, a sin that continues to plague our common life in the Church and our culture; and be it further*

*Resolved, That The Episcopal Church acknowledge its history of participation in this sin and the deep and lasting injury which the institution of slavery and its aftermath have inflicted on society and on the Church; and be it further*

*Resolved, That we express our most profound regret that (a) The Episcopal Church lent the institution of slavery its support and justification based on Scripture, and (b) after slavery was formally abolished, The Episcopal Church continued for at least a century to support de jure and de facto segregation and discrimination; and be it further*

*Resolved, That The Episcopal Church apologize for its complicity in and the injury done by the institution of slavery and its aftermath; we repent of this sin and ask God's grace and forgiveness; and be it further*

*Resolved, That the 75th General Convention of The Episcopal Church through the Executive Council urgently initiate a comprehensive program and urge every Diocese to collect and document during the next triennium detailed information in its community on (a) the complicity of The Episcopal Church in the institution of slavery and in the subsequent history of segregation and discrimination and (b) the economic benefits The Episcopal Church derived from the institution of slavery; and direct the Committee on Anti-Racism to monitor this program and report to Executive Council each year by March 31 on the progress in each Diocese; and be it further*

*Resolved, That to enable us as people of God to make a full, faithful and informed accounting of our history, the 75th General Convention of The Episcopal Church direct the Committee on Anti-Racism to study and report to Executive Council by March 31, 2008, which in turn will report to the 76th General Convention, on how the Church can be "the repairer of the breach" (Isaiah 58:12), both materially and relationally, and achieve the spiritual healing and reconciliation that will lead us to a new life in Christ; and be it further*

*Resolved, That to mark the commencement of this program the Presiding Bishop is requested to name a Day of Repentance and on that day to hold a Service of Repentance at the National Cathedral, and each Diocese is requested to hold a similar service.*

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Columbus, 2006* (New York: General Convention, 2007), pp. 664-665.



**Resolution Number:** 2006-A127  
**Title:** Endorse Restorative Justice and Anti-Racism  
**Legislative Action Taken:** Concurred as Amended  
**Final Text:**

*Resolved, That the 75th General Convention of The Episcopal Church endorse the principles of restorative justice, an important tool in implementing a neutral articulation of the self-examination and amendment of life that is required to fulfill our baptismal covenant; and be it further*

*Resolved, That the 75th Convention, in support of and to enhance Resolution A123, call upon the Anti-Racism Committee of Executive Council to design a study and dialogue process and materials in order to engage the people of The Episcopal Church in storytelling about historical and present-day privilege and under-privilege as well as discernment towards restorative justice and the call to fully live into our baptismal covenant; and be it further*

*Resolved, That in the spirit of inclusion, dioceses also be invited to determine whether their call is to conduct truth and reconciliation processes in regard to other histories and legacies of racial discrimination and oppression that may be applicable in their geographic area, while not diminishing the strong call to focus on the history and legacy of slavery; and be it further*

*Resolved, That the dioceses will give a progress report to the Anti-Racism Committee. The Anti-Racism Committee will report their findings and recommendations to the Standing Commission on National Concerns and to Executive Council and to the 76th General Convention; and be it further*

*Resolved, That the Church hold before itself the vision of a Church without racism; a Church for all races.*

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Columbus, 2006* (New York: General Convention, 2007), pp. 665-666.



**Resolution Number:** 2006-C011  
**Title:** Support Legislation for Reparations for Slavery  
**Legislative Action Taken:** Concurred as Amended  
**Final Text:**

*Resolved*, That the 75th General Convention, affirming our commitments to become a transformed, anti-racist church and to work toward healing, reconciliation, and a restoration of wholeness to the family of God, urge the Church at every level to call upon Congress and the American people to support legislation initiating study of and dialogue about the history and legacy of slavery in the United States and of proposals for monetary and non-monetary reparations to the descendants of the victims of slavery.

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Columbus, 2006* (New York: General Convention, 2007), p. 666.

Mr. COHEN. Thank you very much, Reverend.

Before I recognize our next witness, I want to recognize a Member of Congress who is here, Representative Fredericka Wilson from Florida. And we appreciate your attendance.

Our next witness is Dr. Julian Malveaux. Dr. Malveaux is a labor economist, noted author and frequent media commentator. She wrote a weekly column for more than a decade that appeared in newspapers across the country, including the LA Times, the Charlotte Observer, The New Orleans Tribune, the Detroit Free Press, and The San Francisco Examiner, hosted television and radio programs, and appeared widely as a commentator on networks, including CNN, BET, PBS, NBC, ABC, FOX News, MSNBC, CNBC, C-SPAN, our favorite station, and others. She also serve as a 15th president of Bennett College for Women, America's oldest Historically Black Women's College, received her Ph.D. in economics from MIT, and her bachelor's and master's degrees from Boston College. Thank you for coming, and you are recognized for 5 minutes.

#### STATEMENT OF JULIANNE MALVEAUX

Ms. MALVEAUX. Chairman Cohen, thank you so very much for this opportunity. I also want to thank my sister friend, Congresswoman Sheila Jackson Lee, and my twin sister over there, Congresswoman Karen Bass—people frequently comment on our resemblance—and, of course, Congressman Nadler for your work and your leadership, and Dr. Ron Daniels, who was here it has been mentioned his leadership of NAARC, the National African American Reparations Commission, on which I serve.

I am delighted to be here because this hearing is not on time; it is like overtime. It is more than time for us to deal with the injustices that African American people, not only have experienced in history, but continue to experience. I am an economist. So economics is a study of who gets what, when, where, and why? It is a study of the way the factors of production are paid, the elements, our land, labor, capital, and the secret sauce: Some people call it entrepreneurial ability; some call it creativity. Land gets rent. Labor gets wages. Capital gets interest. And the secret sauce gets profits. But the work of predatory capitalism is to figure out how to extract more from the factors of production toward capital and away from people. And we have seen that in the past three decades with our own economy, but more importantly, enslavement was about the Devil's work of predatory capitalism.

Indeed, enslaved people got no wages, and we represented capital for other people. And so after enslavement—first of all, enslavement was the foundation on which our country was built. So anybody who says, "Well, I didn't have any slaves," no, you didn't have to have any. What you had to do was experience them, enjoy the fact that they were here, enjoy the fact that their labor made it possible for there to be a Wall Street, a bond market, and all of that.

But, beyond that, I want to speak specifically to section 3(b)3 of the legislation. That is the part that talks about the Federal and State laws that discriminate against formerly enslaved Africans and the descendants who are deemed United States citizens. From

Robert Higgs, in a book called "Computation and Coercion: Blacks and the American Economy, 1865 to 1914," he shows that, in 1880, the ratio of Black to White was 1 Black dollar for 36 White dollars; 1890, 1 to 26; 1900, 1 to 23; 1910, 1 to 16; today 1 to 20. In other words, we are almost worse off in 2019 than we were in 1910 because of evil because basically there have been deliberate attempts to marginalize African American people, especially those who were formerly enslaved, because of the interest of predatory capitalism and because it is expedient to maintain the status quo of having free Black labor and to prevent wealth accumulation.

Despite the 13th, 14th and 15th Amendments Black people were treated as other and perniciously and viciously excluded from the possibilities of economic advancement. The Emergency Land Fund documented the reduction of Black land ownership between 1910 and 1969 from 60 million acres to 6 million acres. How and why? Land grabs, tax schemes, faulty deeds, and downright force. My own family in Moss Point, Mississippi, experiencing expropriation of land through a moving fence, like the fence moved one night. We used to have land, and we didn't have the land. Years later, after a couple of cousins were lynched, they changed the name of the land to Hawkins Lane. So they named it after us, but we didn't get it back. Joseph Brooks in 1978 estimated that Black folks were losing 6,000 acres of land per week, and we saw what happened with the Agricultural Department.

The post-enslavement case for reparations can be made by examining racially hostile policy and government complicity to white supremacy. You all have an article that I wrote for the ACLU that talks about several cases, Memphis; Wilmington, North Carolina; Tulsa, Oklahoma. But these were the tip of the iceberg. The this happened everywhere. The journalists Ida B. Wells said that lynching was the first example of white supremacy because it was a tool of terrorism. It dampened the ability of African American people to participate in the vibrant entrepreneurship of the late 19th and early 20th century with a chilling message that our economic success could be punished by the rope.

The economic damage to Black people post-Reconstruction can be summarized in three ways: Number one, we were denied the ability to participate in our Nation's economic growth. The Homestead Act of 1862 did not include formerly enslaved people. More than 10 percent of the continental U.S. land was distributed to recent immigrants from Europe, but not Black folks. So the 40 acres and a mule was given to somebody else, not us. These folks were able, not only to get land, but then to get grants from the Federal Government to develop their land. Meanwhile, African American people were denied the right to these wealth transfers.

Secondly, we were denied the right to accumulate. The attacks of the paper that I mentioned talks about how our accumulation was essentially stymied by lynching. The first lynching that Ida B. Wells examined was one when a Black man had the nerve, the utter nerve, to open up a grocery store near a White man's store. So the White man had the brother lynched, had three people lynched because of economic envy. Listen to those words: economic envy. This is how Black people have been suppressed in their ability to accumulate.

Tulsa, Oklahoma; Wilmington, North Carolina, long stories that I don't have any time to talk about. I want you all to look at the paper I submit and to think about the many ways that Black people who tried to participate, tried to encourage, tried to be American, simply tried to be economic actors, was suppressed because they have the nerve to think it worked. So, my brothers over here who say their American Dream, it is some people's American nightmare, let's just be clear.

Number three, public policy hostility, the public policy hostility to Black people: GI Bill, legislation, truncated opportunities for African American veterans, Federal Housing Administration, reinforced redlining and segregation as an official policy of the Federal Government. People talk about racists as if they are individuals. Yes, sir, but the fact they are not individuals; they are individuals who are buttressed by the Federal Government and legislation.

So let me simply say H.R. 40 is important, NAARC has developed a 10 point plan, but more importantly, as you, my brothers and sisters on this Congress, go forward, may there be a racial justice audit of any new legislation that has economic implications. Thank you.

[The statement of Ms. Malveaux follows:]



HR-40 AND THE PROMISE OF REPARATIONS FOR AFRICAN AMERICANS:  
 TESTIMONY BY DR. JULIANNE MALVEAUX  
 JUNE 19, 2019

Let me begin with appreciation for this hearing, and for the members of Congress – Congresswoman Sheila Jackson-Lee, Congressman Jerold Nadler, and the others who have made this hearing possible.

It is not time, but overtime, to deal with the issues of economic justice and reparations that bring us here.

I am an economist, and economics is the study of who gets what, when where, and why. It is the study of the way that factors of production are paid. The elements are land, labor capital, and the "secret sauce," called entrepreneurial ability or creativity. Land gets rent, labor gets wages, capital gets interest, and the secret sauce gets profits. The work of predatory capitalism is to figure out how to extract more from the factors of production, and we've seen that in the past three decades, with productivity rising and wages remaining stagnant. For enslaved people, wages were once zero.

Indeed, enslaved people represented capital for others. This is significant and important in any examination of our nation's foundations, foundations that rest on the unpaid labor of enslaved people, and their post-emancipation exploitation. My comments today speak most directly to Section 3-b-3 of the legislation, "the federal and state laws that discriminated against formerly enslaved Africans and their descendants who are deemed United States citizens from 1868 to the present.

I have attached an article that I recently wrote that speaks to the connection between economic envy, lynching, and the suppression of Black wealth accumulation. I have also attached a table that shows the many ways that formerly enslaved people were closing the wealth gap until, with the complicity of federal, state, and local governments, this progress was deterred. These items are the basis for my testimony.

From Robert Higgs, we see that the wealth gap between Black and white people narrowed significantly between 1880 and 1910. In 1880, African Americans had just one dollar for every 36 dollars whites had. By 1910, the gap had narrowed to one dollar for every 16 dollars. Depending on the source you use, today African Americans have as little as one dollar for every twenty dollars that whites have in wealth or as much as one dollar for every fourteen dollars. Neither of these represents significant improvement from 1910. Indeed, one can argue there has been an erosion in the Black wealth position from 1910 until today.

Why? I would suggest that there have been deliberate attempts to marginalize African American people, especially those who have been formerly enslaved because the interests of predatory capitalism are such that it was expedient to maintain the

status quo of exploiting Black labor and preventing wealth accumulation. Despite the 13th, 14th and 15th amendments, Black people were treated as "other" and perniciously and viciously excluded from the possibility of economic advancement.

The Emergency Land Fund documented the reduction of Black land ownership between 1910 and 1969, from 16 million acres to 6 million acres. How and why? There were land grabs, tax schemes, faulty deeds, and downright force. My own family, in Moss Point, Mississippi, experienced the expropriation of land through a "moving fence" and a so-called reparation that involved naming the stolen property after our family – Hawkins Lane. In 1978, Joseph Brooks estimated that Black folks were losing 6000 acres of land per week. The *Pigford v. Glickman* case documented discrimination against Black farmers.

The post-enslavement case for reparations can be made by examining racially hostile public policy and government complicity to white supremacy. 'The journalist Ida B. Wells describe lynching as the "first example" of white supremacy because it was a tool of terrorism. It dampened the ability of African American people to participate in the vibrant entrepreneurship of the late 19th and early 20th century with the chilling message that their economic success could be punished by the rope.

The economic damage to Black people, post-Reconstruction, can be summarized in three ways:

African American people were denied the right to participate in our nation's economic growth. The Homestead Act of 1862 only included citizens and did not include formerly enslaved people. More than 10 percent of continental US land was distributed to recent immigrants who became citizens. They were assisted in their land settlement by grants from the federal government. African Americans were denied the right to participate in these wealth transfers.

African American people were denied the right to accumulate. The attached paper details the ways that, in just a few instances, African American entrepreneurial ability was punished by lynching, massacres, or worse. The cases mentioned in this paper, in Memphis, Wilmington, North Carolina, and Tulsa, Oklahoma, represent the tip of the iceberg. These were not acts that were perpetrated by just a few bad apples. These were acts that were sanctioned by public policy. Those who destroyed Black communities and lynched people were never punished. Federal legislators failed to pass anti-lynching legislation. Government-sanctioned attacks against Black entrepreneurs placed a chilling effect on other entrepreneurial development. While it is possible to identify the persons and families who lost businesses, land, and opportunities, the case for reparations must include the effect that economic violence had on the economic aspirations of people and communities. African American people were subjected to public policy hostility, which provided rights for whites that were unavailable to African Americans. This public policy included

GI Bill legislation that truncated opportunities for African American veterans.

Housing regulations that reinforced redlining and segregation, as an official policy of the Federal Housing Administration  
"Urban renewal" or Negro removal policies that accelerated homeownership loss in the wake of "redevelopment."

The National African American Reparations has developed a ten-point plan to repair communities. I would respectfully request that a comprehensive focus on community repair be considered as we grapple with the many ways our nation can make the Black community whole and close the wealth gap.

Mr. COHEN. Our final witness is Professor Eric Miller, professor of law at Loyola Law School in Los Angeles. He has held a number of law teaching positions since 2003, where he has written a number of academic pieces on reparations, among other topics. He testified in December of 2007 before this subcommittee on the legacy of the transatlantic slave trade in America. Professor Miller received his bachelor of law with first class honors from the University of Edinburgh in U.K., and his master of law degree is from Harvard Law School, and he has held a number of fellowships.

Professor Miller, welcome back. You are recognized for 5 minutes.

#### **STATEMENT OF ERIC J. MILLER**

Mr. MILLER. Mr. Chairman, members of the committee, I am honored by the committee's invitation to testify at this very important hearing on H.R. 40 and the path to restorative justice.

I will speak to my experience as an academic studying the issue of reparations and as a lawyer representing the victims of the Tulsa massacre of 1921 in a reparations lawsuit against the State of Oklahoma and the city of Tulsa. In the short time available, I want to make the following points: Local, State, and Federal governments were active perpetrators of race-targeted discrimination against and domination of African Americans during slavery and Jim Crow and beyond. These governmental institutions engaged in the massive social, political, economic, and cultural destruction of African American communities. Many of the perpetrators and victims of race-targeted state action are readily identifiable through a thorough investigation of existing historical records currently in the hands of public and private institutions.

The race-based disparities brought about by Federal, State, and local government discrimination remain baked into our governmental institutions, as well as the persistently segregated private social ordering those institutions brought about.

Reparations addresses the ways in which these institutions entrance race-based discrimination and domination throughout American social, cultural, economic, and political institutions. The committee should consider specific legal remedies to remove the time-limited bars against litigation, which is among the major impediments preventing identifiable victims of extraordinary race-targeted state action to sue State and Federal Governments for financial damages.

There have been multiple reparation-style lawsuits brought since the Supreme Court decided *City of Richmond v. Croson* which have survived constitutional challenge. But reparations must also include rebuilding the social, political, economic, and cultural infrastructure of the communities destroyed by the state because, without cultural and political reparations, race-neutral programs of economic uplift will preserve the relative social and political disadvantage, domination, and disempowerment of African Americans across this Nation.

The urgent need for the H.R. 40 commission on reparations as a path to restorative justice for the victims of state-sponsored racial injustice became clear to me in 2003. That is when I joined the Reparations Coordinating Committee, a group of lawyers led by

Charles Ogletree and Adjoa Aiyetoro. Our legal team filed suit representing more than 125 still living survivors of the Tulsa, Oklahoma, race massacre of 1921.

Now some historical context is in order here. On May 30th, 1921, some African Americans mobilized to stop lynching in Tulsa, Oklahoma. One lynching had an effect on a whole community because, in response, White citizens deputized by the police and aided by the State National Guard burned down the 35 city blocks of Greenwood, a thriving African American residential and business district in Tulsa. Up to 300 African Americans died in the massacre in the ensuing fire. Overnight, 5,000 African Americans became homeless; 3,000 terrorized people fled the city. The rest were rounded up and held under guard for days at the local baseball park and fairground. The Red Cross had to mobilize to provide tents for those who remained. The city of Tulsa and the State of Oklahoma moved quickly to suppress news of a massacre. Survivors were terrorized into silence. All mention of it was excised from official accounts of Oklahoma history. The details of the massacre only became public in 2003 after the State of Oklahoma formed an H.R. 40 style commission, including historians, lawyers, and activists, to report on the massacre. The commission's painstaking research through the historical record discovered much previously unavailable material. The commission apportioned detailed financial damages and proposed that reparations be paid to survivors and descendants.

When the State refused to make good on these recommendations, we filed a lawsuit trying to complete the process begun by the commission. The only impediment to our success, the court acknowledged, was a rule requiring the survivors to file any lawsuit within 2 years of injury. These statutes of limitations are the major impediment to many reparations lawsuits.

The Tulsa experience demonstrates the harms of slavery and segregation scar our communities to this day. The city and State dismantled economically, politically, and culturally a specific community: African Americans in Tulsa. Subsequent generations of Greenwood residents have labored under the social and disempowerment whilst trying to rebuild their community. The Tulsa experience is emblematic of many African American communities around this country. So whilst a monetary payment would count as a beginning, economic justice is not enough without racial justice to repair the specific race-based wrongs of the Tulsa massacre and its aftermath.

To quote Harvard law professor and reparations activist Charles Ogletree, "reparations are more than an exercise in education, remembrance, and apology; reparations demand the political, social and economic power and equality for African Americans that has been stifled and suppressed in America since its inception."

Accordingly, I urge Congress to pass H.R. 40 as a first vital step on the path to acknowledging and accounting for the history of race-targeted discrimination and wrongdoing that has marked too much of this Nation's history.

[The statement of Mr. Miller follows:]

Statement of  
Eric J. Miller  
Professor of Law and Leo J O'Brien Fellow  
Loyola Marymount University  
Before the  
House Judiciary Committee  
Subcommittee on the Constitution, Civil Rights, and Civil Liberties  
Hearing on HR40 and the Path to Restorative Justice  
June 19, 2019

Reparations are more than an exercise in education, remembrance, and apology. Reparations demand the political, social, and economic power and equality for African Americans that has been stifled and suppressed in America since its inception.<sup>1</sup>

Mr. Chairman, Members of the Committee:

I am honored by the Committee's invitation to testify at this very important hearing on HR40 and the Path to Restorative Justice. Whilst reparations has recently received some well-deserved attention in the Democratic Presidential primary campaign, reparations has been a feature of American political debate since Thomas Jefferson proposed declaring enslaved persons "a free and independent people" with rights to land.<sup>2</sup> Reparations is a longstanding and legitimate legal and political demand.

#### I. WHAT IS REPARATIONS?

Reparations is the institutional social, political, legal, economic, and cultural rebuilding, restoration, and empowerment of African American communities and individuals to remedy race-targeted dignity wrongs perpetrated during and through slavery, segregation, and beyond.

The history of America, from the earliest colonies to the present, is a history of discrimination by governmental and private institutions and individuals on African Americans to negate their humanity, dignity, and power. Reparations has two aspects, one backwards-looking, one forwards-looking.<sup>3</sup> First, reparations demands that we acknowledge and redress the specific social, political, cultural, and economic wrongdoing perpetrated by federal, state, and municipal governments designed to reduce African Americans to subservience and servitude.<sup>4</sup> Second, reparations calls for the creation of programs and institutions capable of remedying a specific and pernicious type of historical wrongdoing, which is the race-targeted disempowerment and subordination of African Americans.<sup>5</sup>

Often African Americans reparations envisages this empowerment as "payments to those who are descended from slaves and those discriminated against during the Jim Crow era."<sup>6</sup> However, whilst economic compensation is an essential part of reparations, the larger goal is

<sup>1</sup> Charles J. Ogletree, Jr., Speech delivered at Boston College (Mar. 14, 2003).

<sup>2</sup> Bernard R. Boxill, *Black Reparations*, STAN. ENCYCLOPEDIA PHIL. 1, 1-2 (2016) Retrieved June 10, 2019, from <https://plato.stanford.edu/archives/sum2016/entries/black-reparations/> (quoting THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA 138 (1954) [1785]). Kaimipono Wenger has charted a history of reparations arguments over the past 150 years. See Kaimipono David Wenger, *From Radical to Practical (and Back Again?): Reparations, Rhetoric, and Revolution*, 25 J. CIV. RIGHTS & ECON. DEVELOPMENT, 25(4), 697, 698-704 (2011). And Professor Alfred Brophy has plotted the more recent discussion of reparations into different "generations" that variously legitimized reparations as a valid moral and political goal, and then refined it as a legal claim, before broadening reparations to focus on substantive political, social, economic, and cultural "repair." See ALFRED L. BROPHY, REPARATIONS PRO & CON 62-74 (2006); Alfred L. Brophy, *ReparationsTalk: Reparations for Slavery and the Tort Law Analogy*, 24 B.C. THIRD WORLD L.J. 81, 82 (2004).

<sup>3</sup> Thom Brooks, *A Two-Tiered Reparations Theory: A Reply to Wenar*, 39 J. SOC. PHIL. 666 (2008).

<sup>4</sup> Eric J. Miller, *Reconceiving Reparations: Multiple Strategies in the Reparations Debate*, 24 B.C. THIRD WORLD L.J. 45 (2004).

<sup>5</sup> *Id.*

<sup>6</sup> Alfred L. Brophy, *What Should Inheritance Law Be? Reparations and Intergenerational Wealth Transfers*, 20 L. & LITERATURE 197, 207 (2008).

remedying the specific social, political, cultural, and economic efforts to entrench race-based discrimination and domination throughout American social, cultural, economic, and political institutions of governance.<sup>7</sup>

Reparations for African Americans recognizes that concrete, historical events structure the disparate, race-targeted treatment of African Americans in contemporary American society. These events are the identifiable, discriminatory acts of individuals and institutions. The backwards-looking aspect of reparations exposes the manner in which the structural features of modern discrimination were generated by identifiable institutions and individuals. Reparations charts the ways in which national, state, and local communities have consolidated their civic identities in response to acts of racial violence or discrimination both during and after the era of slavery.<sup>8</sup> Reparations then holds these institutions and individuals accountable for the present-day structural and race-targeted harms traceable to the se past wrongs.

Reparations' forward-looking program entails the creation and financing of institutions capable of undoing the wrong.<sup>9</sup> This forward-looking aspect requires addressing the continuing impact of institutional discrimination and domination in contemporary America, both to hold institutions accountable for past race-targeted wrongs and responsible for current and future race-targeted remediation.

The task is a complex one, because the range of institutions and the forms of discrimination are complex. Different types of injury derive from the different discriminatory activities of disparate national, local, and private entities. Each distinctive injury requires a properly tailored form of reparations to undo the harm inflicted by each discrete form of structural and individual discrimination.

Nonetheless, the task is an essential one for any society that claims to be a democracy of equal citizens under law. As reparations activist, attorney, and academic Adjoa Aiyetoro argues,

democracy requires the correction of oppression or consequences of oppression - substantive democracy. Most of the world would agree that the United States is a democracy. Indeed many tout the United States as being the most advanced democracy. Yet, significant portions of its citizens are living under conditions or vestiges of oppression...Reparations have been advanced as a way to address the continuing inequities that flow from the history of slavery and the Jim Crow Era's de jure discrimination. Slavery and Jim Crow [government]

<sup>7</sup> Boxill, *Black Reparations* at 9.

<sup>8</sup> The backwards-looking aspect is often emphasized in proposals to memorialize the dignity wrongs of slavery as an essential aspect of reparations. See, e.g., Carlton Waterhouse, *Total Recall: Restoring the Public Memory of Enslaved African-Americans and the American System of Slavery Through Rectificatory Justice and Reparations*, 14, J. GENDER, RACE & JUSTICE 1 (2011).

<sup>9</sup> See, e.g., Robert Westley, *Many Billions Gone: Is It Time to Reconsider the Case for Black Reparations?*, 19 B.C. THIRD WORLD L.J. 429, 468-76 (1998) (discussing reparations proposals); ROY L. BROOKS, ATONEMENT AND FORGIVENESS: A NEW MODEL FOR BLACK REPARATIONS (2004); Kevin Judd, *Empowering Up: Reversing the Economic Legacy of Racial Segregation*, 2 HOWARD HUMAN & CIVIL RIGHTS L. REV. 17 (2018) (detailing the use of Economic, Education, and Political Trust Funds as mechanisms to provide institutional based reparations based on my research).



created and supported] were the major occurrences of oppression and exploitation of African peoples in the United States that led to the current state of inequality. The demand for reparations to bridge this inequality is not new nor has it been relinquished. ... reparations must be given in order to [obtain] the equality promised in the evolving understanding of a true democracy.<sup>10</sup>

## II. REPARATIONS FOR RACE-TARGETED “DIGNITY WRONGS”

State-sponsored, race-targeted oppression inflicts specific and distinctive injuries on persons and groups. Racial oppression is an attack on African Americans’ shared humanity and their ability to function as self-governing individuals or communities. The goal of racial oppression is to put the oppressed group in their place, literally and figuratively, by denying the social, political, and cultural access to institutions and opportunities granted by the dominant group.

The core harm justifying reparations is what Bernadette Atuahene calls a “dignity taking,”<sup>11</sup> and what I shall call a *dignity wrong*. Dignity wrongs are distinctive because they are inflicted through (1) race-targeted institutional action (2) destructive of the group’s social, economic, political, and cultural standing or its power to engage in self-governance.<sup>12</sup> The core case of dignity wrong is a government attack on specific groups intended to produce their systematic subordination and exclusion on the basis of race. Governmental action also includes inaction, by withdrawing protections as thereby exposing vulnerable groups to race-targeted discrimination and attack.

Some of the core expressions of race-targeted and state-inflicted dignity wrongs include the destruction of social, political, economic, legal, and cultural institutions.<sup>13</sup> Without access to lasting institutions of this sort, African Americans have been and continue to be denied equal standing and power in the American polity.

The race-targeted and institution-destroying dignity wrongs inflicted by state, federal, and municipal governments are significantly different from economic injustice.<sup>14</sup> Economic injustice is primarily a distributive failure that may be remedied by re-allocating the financial

<sup>10</sup> Adjoa A. Aiyetoro, *Why Reparations to African Descendants in the United States Are Essential to Democracy*, 14 J. GENDER, RACE & JUSTICE, 633, 634-636 (2011).

<sup>11</sup> BERNADETTE ATUAHENE, WE WANT WHAT’S OURS: LEARNING FROM SOUTH AFRICA’S LAND RESTITUTION PROGRAM 31-32 (2014).

<sup>12</sup> Atuahene describes dignity wrongs as both (1) “the failure to recognize an individual or group’s humanness,” *Id.* at 31; and (2) “the restriction of an individual or group’s autonomy based on the failure to recognize and respect their full capacity to reason.” *Id.* at 32. I differ from Atuahene in considering dignity wrongs, not as a form of *misrecognition*, but as a form of discipline and production. The state puts African Americans in their place by adopting policies to restrict opportunities, punish non-conformity, and so create a subordinate class of individuals.

<sup>13</sup> See, e.g., Erik K. Yamamoto, et al. *American Reparations Theory and Practice at the Crossroads* 44 C.M. W.L. REV. 7 (2007) (arguing that reparations activism “continues because the economic and psychological wounds of slavery and segregation persist in the form of well-documented discrimination in housing and employment, denial of access to adult health care, high infant mortality, and negative cultural stereotyping.”)

<sup>14</sup> Matthew Evans and David Wilkins helpfully distinguish the different backwards-looking and forwards-looking aspects of reparations claims. Matthew Evans & David Wilkins, *Transformative Justice, Reparations and Transatlantic Slavery*, 28 SOC. & LEGAL STUD. 137 (2018).

burdens that different socio-economic groups face when accessing social goods such as work, healthcare, and housing. Economic justice proposes a colorblind or *race-insensitive* response that will benefit everyone, irrespective of the wrong done to them (or, indeed, whether there was a wrong done to them). Whilst economic justice is often designed to benefit everyone, it cannot benefit everyone equally. Such proposals ignore the specific and racially distinctive nature of the dignity wrongs inflicted through slavery and segregation upon African Americans, and the race targeted nature of remedying those wrongs. Lacking the resources to take advantage of economic windfalls, the victims of dignity harms will remain disadvantaged in relative terms.

Dignity wrongs are not so easily solved because they are both more specific and more disparate than economic harms. Race-targeted dignity wrongs often occur piecemeal, localized across different geographic and cultural communities. To account for the injuries inflicted by dignity wrongs, it is essential to detail both *what happened* and *who did it*. A core feature of reparations for dignity wrongs requires identifying the specific ways in which African Americans have been injured and traumatized, often requiring a form of corrective justice to redress the specific damage done.

Reparations serves the vital purpose of uncovering race-based power structures in our society, and in our institutions. The sort of investigation required for reparations often reveals that what we take for granted as a “normal” feature of our institutions and our relation to them is in fact structured by an exercise of force that excluded and disempowered African Americans, or permitted others to do so. These exclusionary and disempowering acts continue to structure many federal, state, local, and private institutions. Their current institutional posture normalizes racial domination through repose. A posture of repose allows past, coerced, race-targeted domination to continue unchallenged. Reparations operates to both demonstrate institutions’ historical involvement in subjugating African Americans, and to demand some form of restructuring of the institution or of society to end the present and continuing discrimination and disempowerment inflicted by the institution.

### III. HR40 IS AN ESSENTIAL FIRST STEP TO ACHIEVE REPARATIONS FOR RACE-TARGETED DIGNITY WRONGS

Reparations advocates have pursued a variety of tactics to obtain justice for the victims of race-targeted dignity wrongs.<sup>15</sup> At bottom, however, many of these efforts founder for lack of the information necessary to link past wrongs to identifiable individuals and institutions, or to provide the proper context to establish the nature and scope of the harm done. We might know the vague contours of some terrible act of state-sponsored discrimination but lack the details to flesh out the true picture. HR40 is essential to provide that sort of information.

Consider, for example, a state commission organized along the lines proposed by HR40. In 1997, the State of Oklahoma enacted a statute creating a commission to study and propose reparations for the more than one-hundred-and-twenty-five still living survivors of the Tulsa, Oklahoma Race Massacre of 1921. The Commission’s Report provided the basis for

<sup>15</sup> Charles J. Ogletree, Jr., *Repairing the Past: New Efforts in the Reparations Debate in America*, 38 HARV. C.R.-C.L. L. REV. 279 (2003).

subsequent litigation to enforce the Commission's recommendations by the Reparations Coordinating Committee, a group of lawyers led by Harvard Professor Charles J. Ogletree, Jr. and Adjoa Aiyetoro, the chief legal consultant to the National Coalition of Blacks for Reparations in America (N'COBRA).<sup>16</sup> That litigation would have been impossible without the creation of the Oklahoma Commission to Study the Tulsa Race Riot of 1921. The Commission was charged with:

“undertak[ing] a study to develop a historical record of the 1921 Tulsa Race Riot including the identification of [any] person[] who:  
1. was an actual resident of the Greenwood area or community of the City of Tulsa on or about May 31, 1921, or June 1, 1921; or  
2. sustained an identifiable loss to their person, personal relations, real property, personal property or other loss as a result of . . . the 1921 Tulsa Race Riot.”<sup>17</sup>

The Commission was also instructed to “produce a written report of its findings and recommendations [for the Oklahoma legislature] . . . contain[ing] specific recommendations regarding whether or not reparations can or should be made and the appropriate methods to achieve the recommendations made in the final report.”

In essence, the Tulsa Riot Commission mirrors the commission contemplated by HR40, but directed to investigate only one incident of institutional, state- and municipal-instigated, race-targeted dignity wrong.

On February 28, 2001, the Commission published *Tulsa Race Riot: A Report of the Oklahoma Commission to Study the Tulsa Race Riot of 1921* (“Commission Report”). The Commission Report was essential to uncovering hitherto hidden and suppressed facts relevant to political and legal action to obtain reparations for the massacre survivors. The Commission Report, and the subsequent research it inspired, revealed that the circumstances precipitating the massacre reflected a pervasive atmosphere of race-targeted wrongdoing both pursued through and facilitated by the justice system in Oklahoma.

#### A. *A History of the Tulsa Massacre*

A brief history of the massacre will help explain the significance of the Commission and its Report. From 1910-1920, segments of the white population of Oklahoma, facilitated by the State, engaged in a program of racial violence.<sup>18</sup> The law enforcement system and the courts engaged in a systematic, institutionalized, race-targeted attack on the political and social standing of African Americans. These African Americans were the self-governing residents

<sup>16</sup> The Committee was founded by Charles J. Ogletree, Jr., the Jesse Climenko Professor of Law at Harvard Law School, along with Randall Robins, author of *The Debt*. The Committee members included Adjoa A. Aiyetoro, Professor of Law at the University of Arkansas, Little Rock, School of Law; Johnnie L. Cochran, Jr.; Michele A. Roberts, Executive Director of the National Basketball Players Association; Suzette M. Malveaux, Provost Professor of Civil Rights Law and Director of The Byron R. White Center, at the University of Colorado School of Law; Dennis C. Sweet, III, and Alfred Brophy, the D. Paul Jones Chairholder in Law at the University of Alabama Law School, along with many others.

<sup>17</sup> 74 Okl. St. Ann. §8201.

<sup>18</sup> ALFRED L. BROPHY, RECONSTRUCTING THE DREAMLAND, THE TULSA RIOT OF 1921: RACE, RECONCILIATION, AND REPARATION (2002).

of the Greenwood District of Tulsa, Oklahoma, a thriving African American residential and business district in the City of Tulsa, popularly known as the “Black Wall Street.”<sup>19</sup>

Some of these Tulsans were African American “doughboys”: veterans of military service during the First World War, who had returned from France expecting a “new reconstruction.”<sup>20</sup> Instead, they were confronted by repeated acts of racial violence. For example, the Oklahoma State Legislature found that 23 African Americans were lynched in Oklahoma between 1911 and 1921.<sup>21</sup> Eight months before the massacre, a mob removed an African American man from an Oklahoma jail and lynched him. Professor Alfred Brophy, one of the Tulsa Riot Commissioners, concluded in his book about the massacre, *Reconstructing the Dreamland, The Tulsa Riot of 1921: Race, Reconciliation, and Reparation*:

Not only did police and prosecutors fail to protect blacks, but when cases reached the courts, judges failed to apply the law equally to blacks and whites. Judges failed to convict whites who attacked blacks, issued harsher sentences to blacks than whites, and sometimes interpreted statutes to allow continued unequal treatment in schools and in voting.

The Tulsa Massacre, which began on May 31, 1921, and lasted through the night and on into June 1, 1921, was precipitated by the rumor of just such a lynching.

On the evening of May 31, 1921, a drunken white mob assembled outside the Tulsa jail. They were preparing to lynch Dick Rowland, an African American man falsely accused of attempting to assault a white woman.<sup>22</sup> Some African American men, including World War I veterans, came to the jail to prevent the lynching. A scuffle between the two groups ensued, shots were fired and “all hell broke loose.”<sup>23</sup> The Mayor, acting under color of law, called out local units of the State National Guard and, with the assistance of the police chief of Tulsa, deputized and armed some of the white citizens of Tulsa, many of whom were part of the drunken mob.

Hundreds of white citizens, aided by the State National Guard and the City of Tulsa Police Force, burned down 35 city blocks in the Greenwood district of Tulsa.<sup>24</sup> The Oklahoma State Legislature, adopting the findings of the Riot Commission, acknowledged that:

The staggering cost of the Tulsa Race Riot included the deaths of an estimated 100 to 300 persons, the vast majority of whom were African-Americans, the destruction of 1,256 homes, virtually every school, church and business, and a library and hospital in the Greenwood area, and the loss of personal property caused by rampant looting by white rioters. The Tulsa Race Riot Commission estimates that the property costs in the Greenwood district was approximately \$2 million in 1921 dollars or \$16,752,600 in 1999 dollars. Nevertheless, there were no convictions for any of the violent acts against African-Americans or any insurance

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See 74 Okl. St. Ann. §8000.1.1 (West 2002).

<sup>22</sup> BROPHY, RECONSTRUCTING THE DREAMLAND.

<sup>23</sup> Alfred Brophy, *Assessing State and City Culpability: The Riot and the Law*, published with COMMISSION REPORT, 153, 156 (2001).

<sup>24</sup> BROPHY, RECONSTRUCTING THE DREAMLAND.

payments to African-American property owners who lost their homes or personal property as a result of the Tulsa Race Riot.<sup>25</sup>

Overnight, five thousand African Americans became homeless. Three thousand terrorized people fled the city. The rest were rounded up and held against their will in camps staffed by the National Guard. They could only be released if a white employer “vouched” for them. The Red Cross mobilized to provide tents for the thousands who remained.<sup>26</sup>

The State and City’s institutionalized dignity wrongs did not end with the massacre. In the aftermath of the massacre, the City of Tulsa promptly enforced unlawful, race-targeted zoning restrictions to prevent the reconstruction Greenwood,<sup>27</sup> and refused to provide economic compensation or to help the victims, many of whom remained housed in tents through the fall and into the winter of 1921.

Equally traumatic, the State and City worked hard to suppress talk of the massacre and the survivors’ attempts to seek legal redress. Efforts to seek relief from the court system were unsuccessful and futile. A grand jury called to determine the causes of the Massacre issued indictments against a large number of African Americans, but no whites. “[T]he grand jury believed that the social order had collapsed and that the blacks had staged an uprising.” Many of the African Americans indicted were prominent members of the Greenwood Community. Fearing institutionalized, race-targeted reprisal from the State and City, they fled town.<sup>28</sup>

While some African Americans filed lawsuits at the time, over 100 of them were dismissed before even receiving a hearing.<sup>29</sup> Legal redress was stymied by Oklahoma common law doctrine which unconstitutionally limited municipal liability.<sup>30</sup> The law made it difficult, if not impossible, for massacre victims to sustain a claim against the City of Tulsa absent ratification by the City Council that sought to punish African Americans for the massacre.<sup>31</sup>

The City of Tulsa and the State of Oklahoma moved quickly to suppress news of the massacre. All mention of it was excised from official accounts of Oklahoma history. After the massacre, African Americans were not allowed to speak of their experiences,<sup>32</sup> and were not believed when they did. A core dignity wrong inflicted by the State and City was to inflict intense psychological trauma by undermining the remaining Greenwood residents’ sense of security, “to place them in a subservient condition, and to enforce a racial caste system that privileged whites and disadvantaged and demeaned African Americans.”<sup>33</sup> Even eighty years later, many of our clients, who were survivors of the massacre, were reluctant to

<sup>25</sup> 74 Okl. St. Ann. §8000.1.3 (emphasis added).

<sup>26</sup> BROPHY, RECONSTRUCTING THE DREAMLAND.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 95-97.

<sup>30</sup> See Alfred L. Brophy, *The Tulsa Race Riot in the Oklahoma Supreme Court*, 54 OKLA. L. REV. 67 (2001).

<sup>31</sup> See *Wallace v. City of Norman*, 60 Pacific 108 (Okla. Terr. 1900).

<sup>32</sup> See John Hope Franklin and Scott Ellsworth, *History Knows No Fences: An Overview*, published with the COMMISSION REPORT 21, 26-28 (2001) (discussing suppression of discussion of Riot). See also Brent Staples, *Unearthing a Riot*, NY TIMES, December 19, 1999, Section 6 at 64 (same).

<sup>33</sup> Complaint, *Alexander v. Governor of the State of Oklahoma*, 03CV133, Complaint dated February 4, 2003 (N.D. Okl., 2003).

talk about their experience. “Many of them still believe[d] that the state and municipal government will punish them for discussing openly what happened during the Riot.”<sup>34</sup>

According to the Commission Report, “The 1921 riot is, at once, a representative historical example and a unique historical event. It has many parallels in the pattern of past events, but it has no equal for its violence and its completeness.”<sup>35</sup>

In 1997, in an effort to end the “conspiracy of silence” imposed by the State and City in the aftermath of the massacre,<sup>36</sup> the State of Oklahoma commissioned a study to determine liability for the Massacre and make recommendations for restitution for the Massacre’s victims. The resulting body, The Oklahoma Commission to Study the Tulsa Race Riot of 1921, made detailed findings revealing the causes and racially discriminatory consequences of the massacre, which were then endorsed by the Oklahoma State Legislature.<sup>37</sup> The Commission determined that:

The root causes of the Tulsa Race Riot reside deep in the history of race relations in Oklahoma and Tulsa which included the enactment of Jim Crow laws, acts of racial violence...against African-Americans in Oklahoma, and other actions that had the effect of “putting African-Americans in Oklahoma in their place” and to prove to African-Americans that the forces supportive of segregation possessed the power to “push down, push out, and push under” African-Americans in Oklahoma.”<sup>38</sup>

According to the legislature:

Perhaps the most repugnant fact regarding the history of the 1921 Tulsa Race Riot is that it was virtually forgotten, with the notable exception of those who witnessed it on both sides, for seventy-five (75) years. This “conspiracy of silence” served the dominant interests of the state during that period which found the riot a “public relations nightmare” that was “best to be forgotten, something to be *swept well beneath history’s carpet*” for a community which attempted to attract new businesses and settlers.”<sup>39</sup>

The details of the massacre only became public in 2003, after the HR40-style Commission published its report on the massacre. The Commission found that, to this day, Oklahoma, and in particular, Tulsa, remains racially divided. The Commission’s painstaking search through the historical record led to the discovery of much previously unavailable material, and proposed that reparations be paid to the survivors and descendants. When the state refused to make good on those recommendations, the Reparations Coordinating Committee filed a lawsuit, *Alexander v. Governor of Oklahoma*, on behalf of 125 then-living survivors of the massacre, in an attempt to force the City of Tulsa and the State of Oklahoma to follow through on the Commission’s recommendations to compensate the still-living victims and the other massacre victims’ descendants.

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<sup>34</sup> *Id.*

<sup>35</sup> COMMISSION REPORT at 19.

<sup>36</sup> 74 Okl. St. Ann. §8000.1.5.

<sup>37</sup> See *id.* at §8000.1.

<sup>38</sup> *Id.* at §8000.1.1.

<sup>39</sup> *Id.* at §8000.1.4 (emphasis added).

B. *The Litigation Strategy*

Ordinarily, a civil rights law suit alleges a violation of the Equal Protection or Due Process Clauses of the Fourteenth Amendment. The plaintiff then brings suit under Title 42, Section 1983 of the United States Code which provides a means for holding state actors liable for constitutional torts. Such a lawsuit requires that there be some living victim harmed by an identifiable perpetrator who directly caused the harm, and that compensation be available in a determinate amount. In addition, the statute of limitations in Oklahoma provided two years in which to file suit.

Typically, reparations claims lack these factors. In suing on behalf of formerly enslaved people, for example, all formerly enslaved persons have been dead for at least a generation; no Americans living today has directly injured African Americans by enslaving them; descendants of slaves cannot often show harms directly attributable to contemporary individuals; and it is difficult to determine who should get what and how much.<sup>40</sup> However, the Tulsa litigation fit well a traditional civil rights complaint, thanks to the Commission Report.

Unfortunately, the litigation was ultimately unsuccessful. The district<sup>41</sup> and appellate<sup>42</sup> courts were ultimately unpersuaded by that the victims could not have filed suit earlier, and so refused to toll the statute of limitations. Sadly, the families remain uncompensated, Greenwood remains unreconstructed and underdeveloped, and Tulsa remains a racially segregated city.

C. *The Importance of the Commission Report*

The Tulsa massacre experience explains the vital importance of HR40. Without the Commission Report, filing suit would have been impossible. The plaintiffs would have lacked the core components of a traditional civil rights complaint.<sup>43</sup> The Tulsa litigation was exceptional because of the existence of a comprehensive record, identifying specific victims, made possible by a commission to study and report the massacre. The report discovered new information and identified the amount of damage done to the victims by the perpetrators. The Commission Report assessed damages in the range of \$2 million in 1921 dollars,<sup>44</sup> which the State acknowledged was \$16,752,600 in 1999 dollars.<sup>45</sup> Commissioner Eddie Faye Gates managed to trace many of the survivors and their descendants. Each of

<sup>40</sup> See Eric J. Miller, *Representing the Race: Standing to Sue in Reparations Lawsuits*, 20 HARV. BLACKLETTER L.J. 91 (2004).

<sup>41</sup> *Alexander v. Oklahoma*, Order filed March 19, 2004 (N.D. Okl. 2004).

<sup>42</sup> *Alexander v. Oklahoma*, 382 F.3d 1206 (10<sup>th</sup> Cir. 2004).

<sup>43</sup> For the importance of the traditional civil law framing for reparations litigation, see Eric K. Yamamoto, *Racial Reparations: Japanese American Redress and African American Claims*, 40 BOSTON COLLEGE L. REV. 477 (1998).

Alfred Brophy has called attempts to bring reparations lawsuits within this framework the "third generation" of reparations activism. See ALFRED L. BROPHY, REPARATIONS PRO & CON 62-74 (2006); Alfred L. Brophy, *ReparationsTalk: Reparations for Slavery and the Tort Law Analogy*, 24 B.C. THIRD WORLD L.J. 81, 82 (2004). See also Erik K. Yamamoto, et al. *American Reparations Theory and Practice at the Crossroads* 44 CAL. W.L. REV. 7 (2007).

<sup>44</sup> Commission Report at 149.

<sup>45</sup> 74 Okl. St. Ann. §8000.1.3 (emphasis added).

these factors distinguished the *Alexander* case from other reparations lawsuits not based upon a detailed, official historical record.

Action to remedy dignity wrongs requires detailed, accurate historical information exposing what happened. The Tulsa Commission was able to provide a robust, accurate, detailed report because its board membership included historical experts on the massacre, activists able to track down massacre survivors, and legal experts able to interpret the nature of the City's and State's wrongdoing. HR40 §4 contemplates just this sort of board, requiring selected members to be qualified for service by virtue of their "education, training, activism or experience, particularly in the field of African-American studies and reparatory justice."

Without detailed information regarding the Tulsa massacre, the Reparations Coordinating Committee would have been unable to file a lawsuit. The Commission simply had more and better resources than a small litigation team could amass, and the litigation team relied heavily on the report, as well as the documents it had uncovered and placed in the public domain for everyone to access.

It is much harder, but not impossible to discover this amount of detailed information about the practices of federal, state, municipal, and even private institutions in supporting the peculiar institution of slavery. For the most part, however, the problem is not the lack of information, but—as HR40 recognizes—accessing the materials and compiling the information in a single database. There are a variety of precedents for this sort of work, albeit on a much smaller scale. The Tulsa Commission is one of them.

Several local ordinances, for example, have required businesses to disclose their contacts with slavery as a condition of doing business with a municipality. Two of these are the Slavery Era Insurance Act in California<sup>46</sup> and the Slavery Era Disclosure Ordinance.<sup>47</sup> Some such regulation might be used by the Federal Government to require private institutions to search through their records and make appropriate disclosures as a cost of doing business with the government.

HR40 is also essential because financial compensation for the dignity wrongs of race-targeted discrimination is not enough. Reparations aims to empower African Americans socially, economically, politically and culturally. The goal is to create African American institutions capable of providing effective organization and leadership aimed at reconstructing the institutions destroyed by governmental action. This sort of political organization requires training, funding, and other forms of support.

Litigation is always, in reparations terms, a limited remedy.<sup>48</sup> Litigation is an insufficient vehicle for generating new community structures to replace those destroyed by systematic

<sup>46</sup> Cal. Ins. Code §§ 13810-13813 (West Supp. 2019).

<sup>47</sup> *Business, Corporate and Slavery Era Insurance Ordinance*, MUN. CODE OF CHH. § 2-92-585 (2002). For a detailed discussion, see, e.g., Charles J. Ogletree, Jr., *Repairing the Past: New Efforts in the Reparations Debate in America*, 38 HARV. C.R.-C.L. L. REV. 279 (2003).

<sup>48</sup> At the very least, community action is necessary to obtain the sort of empowerment contemplated by reparations. See, e.g., Adjoa A. Aiyetoro & Adrienne D. Davis, *Historic and Modern Social Movements for Reparations: The National Coalition of Blacks for Reparations in America (N'cobra) and its Antecedents*, 16 TEX. WESTLAW L. REV.



institutional action emblematic of dignity wrongs. A lawsuit can require the state to pay monetary damages to the victims. In addition, if necessary a lawsuit could enjoin the state from adopting any policy that would continue to harm the victims. These remedies are, however, only a part of redress contemplated by reparations, which demands action to identify and redress the dignity wrong perpetrated upon the victims.

In the Tulsa massacre, the dignity wrong was massive, race-targeted violence that razed a whole community, including its residential and business districts, and social institutions including schools, a library, and a hospital. The City and State inflicted catastrophic mental and emotional trauma upon a generation of African American Tulsans. The City and State prevented the residents of Greenwood from rebuilding their town, and reduced them to a dependent state. And to cover its tracks, the City and State erased the massacre from the official history of the state, and suppressed reporting of the massacre, so that subsequent generations did not know about the massacre or did not believe that it had happened.

The damage wrought by the Tulsa race massacre extended beyond the victims and their descendants. It impacted every African American who lived in Tulsa, and indeed, in the State of Oklahoma. The City and State communicated a clear message about African Americans subordinate status. The State and City destroyed the social, political, legal, economic, and cultural institutions and infrastructure created by African Americans in the Greenwood district of Tulsa. The City and State then prevented their reconstruction. Reparations in Greenwood would thus take the form of investing in local institutions, run by African Americans, employing African Americans, serving African Americans, because it was these African American community institutions and infrastructure that was targeted for destruction.

During the Tulsa litigation, the Reparations Coordinating Committee discovered various groups and grassroots organizations who were attempting to provide this sort of organization and leadership on behalf of the African American community, but who lacked the resources to make the massive social change required to remedy the dignity wrongs inflicted by the Tulsa massacre.

Members of the Reparations Coordinating did participate in dialog with organizations formed in the wake of the Commission's Report. Many of these activists wanted real reparations: investment in providing meaningful employment, ownership, and educational opportunities for the residents of Greenwood to enable them to rebuild the district and restore the community. However, the Reparations Coordinating Committee could offer only very limited help because it lacked a political organization to match its litigation organization. Furthermore, as a non-profit organization, the Reparations Coordinating Committee simply lacked the financial resources to devote to this sort of political activity. It was clear that a simple financial payment to the survivors might take care of our clients' health needs in their old age (the Reparations Coordinating Committee's youngest client was 80 years old). However, such a payment would do little to restore the social and political power of the community destroyed in the massacre.

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687 (2010); Kaimipono David Wenger, *From Radical to Practical (and Back Again?): Reparations, Rhetoric, and Revolution*, J. CIV. RIGHTS & ECONOMIC DEVELOPMENT 697 (2011).

## IV. FEDERAL GOVERNMENTAL RACE-TARGETED DISCRIMINATION

From its inception, the United States sought to create and maintain a system of race-targeted domination. The creation of the federal government itself, through a Constitution that replaced the loose alliance of states envisaged by the Articles of Confederation, embraced a commitment to the subjugation of African Americans. “The structure and content of the original Constitution was based largely on the effort to preserve a racial caste system—slavery—while at the same time affording political and economic rights to whites.”<sup>49</sup>

My focus in this section is necessarily on a few illustrative events to demonstrate the federal government’s active participation in dignity wrongs. A more comprehensive account for the HR40 Commission to undertake.

A commonplace feature of constitutional history is that in the antebellum period, the Constitution delegated most policy-making regarding slavery to the states. The federal government’s main involvement, on this view, was to designate which states were to be slave states and which to be free. Though that intervention was significant enough to lead to a civil war, nonetheless it underestimates the day-to-day activities of the federal government in supporting slavery.

Though the dominant feature of federal government during the antebellum period was its relatively small size, that government nonetheless provided direct support to slavery in a variety of ways. Historian Leon Litwack cataloged just a few of these federal initiatives:

Reflecting the popular conception of the United States as a white man’s country, early Congressional legislation excluded Negroes from certain federal rights and privileges and sanctioned a number of territorial and state restrictions. In 1790, Congress limited naturalization to white aliens; in 1792, it organized the militia and restricted enrollment to able-bodied white male citizens; in 1810, it excluded Negroes from carrying the United States mails; in 1820, it authorized the citizens of Washington, D.C., to elect “white” city officials and to adopt a code governing free Negroes and slaves. Moreover, it repeatedly approved the admission of states whose constitutions severely restricted the legal rights of free Negroes.<sup>50</sup>

Furthermore, the role of the federal military in supporting the institution of slavery is often overlooked. The federal government used slave labor in military building projects; provided military assistance in the recapture of escaped enslaved people; and authorized military deployments that facilitated the development of westward expanding slave states.<sup>51</sup>

For example, the federal buildings housing the government in the District of Columbia were built using slave labor, and slaves worked in construction on military bases and naval yards. As Southern States developed Slave Patrols to capture escaped enslaved people,<sup>52</sup> so the

<sup>49</sup> MICHELLE ALEXANDER, *THE NEW JIM CROW* 25 (2012).

<sup>50</sup> LEON F. LITWACK, *NORTH OF SLAVERY: THE NEGRO IN THE FREE STATES* (1961).

<sup>51</sup> See, e.g., DAVID F. ERICSON, *SLAVERY IN THE AMERICAN REPUBLIC: DEVELOPING THE FEDERAL GOVERNMENT, 1791-1861* (2011).

<sup>52</sup> RISA GOLUBOFF, *VAGRANT NATION: POLICE POWER, CONSTITUTIONAL CHANGE, AND THE MAKING OF THE 1960s* (2016).

federal government used the military to assist in their capture and return.<sup>53</sup> Finally, both conflict over returning escaped enslaved persons, as well over land to accommodate the expansion of slave states, embroiled the military in wars with Native Americans and European nations and their colonies on the United States' western and southern borders.<sup>54</sup>

After the Civil War, the states ratified the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution. These Amendments were designed to empower formerly enslaved African Americans socially and politically. The Amendments outlawed slavery, guaranteed citizenship, and purported to promote equality, provide legal protections, and protect the right to vote. To bolster these Amendments, Congress passed a series of statutes designed to permit individuals to hold the states accountable for constitutional violations. However, with the end of Reconstruction, the Constitution's protects existed in name only, as far as the rights of African Americans were concerned.

For example, Southern states at the end of the Civil War sought to re-establish slavery by other means. Since the 13th Amendment had prohibited slavery "except as a punishment for crime whereof the party shall have been duly convicted,"<sup>55</sup> some Southern states sought to use incarceration as a substitute for slavery. State vagrancy laws, used to persecute free slaves during the antebellum period, were now used to incarcerate African American workers or force them to remain tied to labor-intensive, poorly paid agricultural jobs.<sup>56</sup>

In the State of Alabama, convict leasing began in 1846 and lasted until July 1, 1928. "Convict leasing generated about 6 percent of the state's total revenue in these years."<sup>57</sup> One of the beneficiaries was Tennessee Coal, Iron & Rail, already in business during the Confederate years. It was taken over by U.S. Steel in 1907. Possibly the greatest impetus to the continuance of convict labor in Alabama was to depress the union movement.<sup>58</sup>

All told, at least 40,000 state prisoners were leased to private enterprises, mostly between 1900 and 1922; in addition, 51 of Alabama's 67 counties leased their prisoners. During those twenty years the State of Alabama received \$17 million in leases (about \$250 million in today's dollars). Companies saved labor costs, and they even got additional income by spending less on food and lodging than what the state paid them.

Death rates among leased convicts were approximately ten times the death rates of prisoners in non-lease states. In 1873, for example, twenty-five percent of all black leased convicts died. There is what locals call a "U.S. Steel cemetery" in a deserted portion of Birmingham that may contain the bodies of African Americans who died during the convict lease system.

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<sup>53</sup> ERICSON, *SLAVERY IN THE AMERICAN REPUBLIC* AT 80-107.

<sup>54</sup> *Id.*

<sup>55</sup> U.S. Const. Amend. XII.

<sup>56</sup> RISA GOLUBOFF, *VAGRANT NATION: POLICE POWER, CONSTITUTIONAL CHANGE, AND THE MAKING OF THE 1960S* 115-117 (2016).

<sup>57</sup> DAVID OSHINSKY, *WORSE THAN SLAVERY: PARCHMAN FARM AND THE ORDEAL OF JIM CROW JUSTICE* 80 (1996).

<sup>58</sup> *See* MATTHEW J. MANGINI, *ONE DIES, GET ANOTHER: CONVICT LEASING IN THE AMERICAN SOUTH, 1866-1928* (1996).

While the practice of convict leasing was nominally legal under the 13th Amendment, which permits involuntary servitude if one is “duly convicted” of a crime, many of the leased African Americans were not so convicted, and the public records reflect that fact. Many African Americans were not even charged before being leased. The State of Alabama appears to have engaged in widespread dignity wrongs illegal even under the laws that existed as they participated in this form of “slavery by another name.”<sup>59</sup>

Even the New Deal, a period often associated with broad-based social and economic justice, brought with it broad policies of race-based segregation and domination. Boris Bittker observed in his pathbreaking book, *The Case for Black Reparations*:

the discriminatory policies of federal agencies administering residential and business loans and guarantees, public housing projects, agricultural extension services, farm-price supports, and other economic and social programs...have only gradually been subjected to the constitutional standard of equality that in theory has always been applicable.<sup>60</sup>

Every aspect of the federal government has been touched by racial discrimination. The federal government perpetrated massive, race-targeted, dignity wrongdoing upon African Americans through access to housing, education, health care, property law, agricultural policy, military policy, and criminal justice, to name just a few.

Segregationist federal programs did not operate in isolation from state programs and state law. Whilst segregation takes many forms, the most basic separates African Americans physically and geographically from whites, through separate residential and work districts, and separate facilities in shared work or residential spaces. Federal law played a major role in creating these separate districts and facilities.

For example, the GI Bill is famous for creating a generation of opportunity for white servicemen returning to the United States from war service. The Bill funded both residential and educational opportunities, providing financing to purchase a house and go to college. The Bill effectively created post-war suburbia, which the federal government facilitated by building roads and communications networks to enable the flight from city to the suburbs.

This movement of whites to the suburbs is often presented as the private choices of white city-dwellers fleeing increasingly African American cities. Whatever the truth in that image, the federal government was not a passive onlooker, but active driver of white flight. Under the GI bill, the Department of Veterans Affairs “denied African Americans the mortgage subsidies to which they were entitled,”<sup>61</sup> so that demobilized African Americans could not afford the suburban homes available to white veterans.

Even if they could, various New Deal programs, such as the Public Works Administration

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<sup>59</sup> DOUGLAS BLACKMON, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK PEOPLE IN AMERICA FROM THE CIVIL WAR TO WORLD WAR II* (2008).

<sup>60</sup> BORIS BITTKER, *THE CASE FOR BLACK REPARATIONS* (1973).

<sup>61</sup> RICHARD ROTHEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* 167 (2017).

Made actively segregated the areas available for housing. The New Deal policies of the Roosevelt administration are often praised as a form of economic justice, lifting up all the people of America out of the Great Depression. Certainly, African Americans benefited from the federal programs. Nonetheless, the programs were administered as a racial caste system to ensure that African Americans remained relatively disadvantaged as compared to whites. Even the New Deal imposed identifiable race-targeted dignity wrongs upon African Americans, the effects of which persist to this day.

The federal government's official policy maintained segregation in providing affordable housing during the 1930s and 1940s. Unofficially, however, the federal government increased both segregation and African American housing density. For example, the government would effect a taking of housing occupied by African Americans, remake the now-cleared neighborhood for whites, and requiring pre-existing African American neighborhoods to absorb the displaced black homeowners.<sup>62</sup>

A result of the government program, therefore, was the increased population density that turned the African American neighborhoods into slums.<sup>63</sup>

Other government agencies were also in on this act. For example, in the 1930s the Fair Housing Administration developed amortized mortgages. These mortgages, offered at a low rate of interest, included not only the interest on the loan, but principal as well, so that by the end of the loan period, the mortgagee would own the house. The Federal Housing Administration, however, created the "redlining" of neighborhood: a policy that officially favored granting loans to whites seeking to purchase a home in the suburbs, and denied loans to African Americans constrained to buy in the cities. Another 1930s creation, the Homeowners Loan Corporation, created to rescue defaulting homeowners, awarded amortized mortgages to whites that were denied to African Americans.<sup>64</sup>

Because the FHA's appraisal standards included a whites-only requirement, racial segregation now became an official requirement of the federal mortgage insurance program.<sup>65</sup>

The federal government also engaged in the race-targeted immiseration of rural African American landowners. The federal practice of discriminatorily denying credit to African American farmers was described by the district court in a decision in the case of *Pigford v. Glickman*.<sup>66</sup> The court explained that longstanding historical discrimination by the United States Department of Agriculture ensured that federally funded credit and benefit programs available for *all* farmers were specifically withheld from African American ones.<sup>67</sup> Whilst the statute was race neutral, the local committees that awarded funding were white dominated. For decades, local white commissioners denied credit and benefits to African American farmers. The district court acknowledged that this federal action:

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<sup>62</sup> *Id.* at 21-22.

<sup>63</sup> *Id.* at 22.

<sup>64</sup> *Id.* at 64-65.

<sup>65</sup> *Id.*

<sup>66</sup> 185 F.R.D. 82 (D.D.C. 1999).

<sup>67</sup> *Id.* at 87.

has had a devastating impact on African American farmers. According to the Census of Agriculture, the number of African American farmers has declined from 925,000 in 1920 to approximately 18,000 in 1992. The farms of many African American farmers were foreclosed upon, and they were forced out of farming. Those who managed to stay in farming often were subject to humiliation and degradation at the hands of the county commissioners and were forced to stand by powerless, as white farmers received preferential treatment.<sup>68</sup>

Federal action was urgently needed, in part to remedy the race-targeted discriminatory acts of local whites. In addition to the race-targeted violence and intimidation experienced by many African American farmers, white Southerners also engaged in a form of financial terrorism designed to force rural African Americans to sell their land.

Following the end of reconstruction and the introduction of Jim Crow, white land owners in the South engaged in a variety of schemes designed to dispossess black landowners of their property. One of the most common is to force partition sales of land held in common. Whenever one of the tenants in common sold her interest in the land, a predatory speculator could buy that interest, then sue to have the property partitioned. Where the property belonged to African Americans, courts often ignored the preferred remedy of partitioning the land, electing instead to force a partition sale of the whole property, often to a white purchaser. Although each tenant would receive a share of the profits, the original African American tenants often did not want to sell, but to stay on the land.<sup>69</sup>

The effect has been to immiserate black farmers on the basis of their race (a dignity wrong). Many of these farmers moved from rural areas to urban centers, where they were funneled into overcrowded segregated neighborhoods. In this way, the UDSA and its predecessor organizations contributed to the creation of the inner-city African American ghetto. Our currently segregated urban, suburban, and rural landscape is thus not—as the Supreme Court sometimes assumes—the unmediated associational choice of white and African Americans: it was a planned decision thrust upon them by the federal government, aiding and abetting state and local governments.

The creation of white suburbia and urban overcrowding had a major impact upon housing, education, and crime. Federal policy, along with state and local housing regulation, created

<sup>68</sup> *Id.* at 87-88.

<sup>69</sup> See, e.g., Thomas W. Mitchell, *Destabilizing the Normalization of Rural Black Land Loss*, 2005 WIS. L. REV. 557 (2005); Thomas W. Mitchell, *From Reconstruction to Deconstruction, Undermining Black Ownership through Partition Sales of Tenancies in Common*, 95 NORTHWESTERN U. L. REV. 505 (2001). See also Spencer D. Wood & Jess Gilbert, *Returning African-American Farmers to the Land: Recent Trends and a Policy Rationale*, REV. BLACK POL. ECON., Spring 2000; Robert Zabawa, *The Black Farmer and Land in South-Central Alabama: Strategies to Preserve a Scarce Resource*, 19 HUM. ECOLOGY 61 (1991). Professor Thomas Mitchell, the national expert on this form of land theft, argues that lack of data serves (1) to normalize the erroneous belief that race-targeted theft of African American land is ancient history, and (2) to undermine efforts to stabilize (let alone undo) the dignity wrong of race-targeted land expropriation. However, the legal and political regimes facilitating land theft are still in operation. To combat this sort of land theft, Professor Mitchell served as the Reporter, principal drafter, of the Uniform Partition of Heirs Property Act (UPHPA), a uniform act that addresses partition sales of African-American-owned tenancy-in-common property and is designed to protect African American property valued at several billion dollars. However, whilst the act may prevent future predation of African American land, it cannot restore land already stolen. Accordingly, HIR40 is urgently needed to help reveal the historical practice of land expropriation.

suburban tracts of “single-family homes physically separated from one another by expanses of yard and often fences, in a setting ideally removed from traffic, commercial life, and workplaces.”<sup>70</sup>

At the same time, federal, state, and municipal policies, as well as demographic movement from the South, produced increasingly overcrowded racially dense cities. Federal housing policy contributed to the “hypersegregation”<sup>71</sup> of certain neighborhoods in large metropolitan cities: areas in which the African American population is tightly packed into minority neighborhoods clustered together near the center of a city without contact with whites, who reside far away from the black neighborhoods. The effect of federal, state, and local policies:

was often to concentrate the poor and minority families in areas quite far removed from the city and lacking in basic amenities such as shops, jobs and good public transport.<sup>72</sup>

Combined with other federal policies, the government helped create what Harvard philosopher Tommie Shelby has called the moral abomination of the African American ghetto: a space in which federal, state, and municipal governments have forfeited their legitimacy thanks to their failed social policies.<sup>73</sup>

The segregation in housing was matched by a federal policy of maintaining or promoting segregation in education. The Veterans Administration and the Federal Housing Administration pursued similar policies with regard to education. Whilst the FHA promoted the continued segregation of school children, the VA directed white veterans to four-year colleges and African American veterans to trade schools.<sup>74</sup>

These federally-sponsored educational disadvantages had a knock-on effect on employment, which was also already the subject of discriminatory federal policies. For example, the Veterans Administration routinely engaged in “arbitrary, discriminatory, and indifferent treatment of blacks.”<sup>75</sup> In the Southern States, the United States Employment Service, which operated as a job placement service for unemployed veterans, coerced overqualified African American servicemen into low-paying, unskilled jobs under penalty of losing their unemployment benefits.<sup>76</sup>

A 1947 survey conducted by scholar Howard Johnson found that “of 1,700 veterans employed in the Veteran’s Administration in one southern

<sup>70</sup> Jonathan Simon, *Consuming Obsessions: Housing, Homicide, and Mass Incarceration since 1950*, 2010 U. CHI. L. FORUM 141, 148 (2010).

<sup>71</sup> See, e.g., Douglas S. Massey & Nancy A. Denton, *Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions*, 26 DEMOGRAPHY 373 (1989); ROBERT J. SAMPSON, *GREAT AMERICAN CITY: CHICAGO AND THE ENDURING NEIGHBORHOOD EFFECT* (2012).

<sup>72</sup> DAVID GARLAND, *THE CULTURE OF CONTROL* 84 (2001).

<sup>73</sup> See Tommie Shelby, *Dark Ghettos: Injustice, Dissent, and Reform* (2016).

<sup>74</sup> *Id.* at 22.

<sup>75</sup> Hilary Herbold, *Never a Level Playing Field: Blacks and the GI Bill*, 6 J. BLACKS IN HIGHER ED. 104, 105 (1994-1995).

<sup>76</sup> David H. Onkst, *“First a Negro... Incidentally a Veteran”*; *Black World War Two Veterans and the G. I. Bill of Rights in the Deep South, 1944-1948*, 31 J. SOC. HIST. 517, 520-23 (1998).

state, only seven are Negroes,” despite the fact that blacks comprised a third of all southern veterans at the time.<sup>77</sup>

The federal government’s residential policy also had an effect on perceptions of criminality. White suburbanites experienced the “declining importance of local loyalties and face-to-face interaction settings; and the increased privatization of individual and family life.”<sup>78</sup> This privatization, however, was also experienced as isolation and relative vulnerability to outsiders, also known as “stranger danger.”<sup>79</sup> In these racially homogenous suburbs, the quintessential stranger was an African American one. The political creation of the white suburb produced a fear of the black “other” that justified harsh crime policies leading, through a variety of routes, to our current system of mass incarceration.<sup>80</sup>

## V. REPARATIONS AND RESTORATIVE ACTION

HR40 proposes recommending remedies for the dignity wrongs justifying reparations. I shall conclude by suggesting some of the obstacles to reparations litigation. There are few legal options for pursuing reparations, absent some action by Congress to toll the statute of limitations.

### A. Litigation

The controlling slavery reparations case is *Cato v. United States*.<sup>81</sup> An African American sued the United States government for the enslavement of her ancestors and for continuing discrimination on the basis of race.<sup>82</sup> She sought money damages and an official apology from the United States government.<sup>83</sup>

Because Cato did not specify the legal basis of her lawsuit, the district and appellate courts attempted to determine whether there was *any* theory of liability under which she could amend her complaint and thereby avoid dismissal of her case.<sup>84</sup> The court identified two possible grounds under which to bring a reparations lawsuit:

- (1) The Tucker Act, 28 U.S.C. § 1491, by which the federal government consents to suit for money damages in cases not sounding in tort. *See United States v. Mitchell*, 463 U.S. 206, 214 (1983);

<sup>77</sup> Herbold, *Never a Level Playing Field* at 105.

<sup>78</sup> DAVID GARLAND, *THE CULTURE OF CONTROL* 85 (2001).

<sup>79</sup> Simon, *Consuming Obsessions* at 149.

<sup>80</sup> *See, e.g.*, Garland, *Culture of Control*. *See also* William J. Stuntz, *Self-Defeating Crimes*, 86 VA. L. REV. 1871, 1874 (2000) (suggesting suburbanites ability to externalize consequences of criminal punishment onto urbanites tends to ratchet up the level of punishment).

<sup>81</sup> 70 F.3d 1103 (9<sup>th</sup> Cir. 1995).

<sup>82</sup> *Id.* at 1106.

<sup>83</sup> *Id.*

<sup>84</sup> The *Cato* court considered a relatively comprehensive range of rationales for a reparations suit, including: the Federal Tort Claims Act; the Indian trade and Intercourse Act, 25 U.S.C. § 177; the Thirteenth Amendment; and *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 402 U.S. 388 (1971). However, the court was positively unable to identify any legal basis under which a reparations claim could be brought. *Cato*, 70 F.3d at 1105, 1111.



- (2) The Administrative Procedures Act, 5 U.S.C. § 702, under which the government may be liable for non-monetary relief.

The *Cato* court held that the “continuing violations” doctrine, whereby a suit is permissible so long as the violation from which it results continued through the time limit of the applicable statute of limitations, may apply to permit such a suit.<sup>85</sup> The court held, however, that there was no right to sue the government for the acts complained of, and so the question of whether the action was time-barred was immaterial to the resolution of the case.<sup>86</sup>

However, neither statute straightforwardly permits relief. To succeed under the Tucker Act, a plaintiff must sue in the Federal Circuit, and demonstrate that substantive law provides a basis for damages, such that “the source of substantive law ‘can fairly be interpreted as mandating compensation by the Federal Government for the damages sustained.’”<sup>87</sup>

However, both *Cato* and *Hobri v. United States*,<sup>88</sup> raise substantial barriers to bringing suit. Both cases preclude suit under the Thirteenth Amendment, *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*,<sup>89</sup> and under the Federal Tort Claims Act.<sup>90</sup> *Cato* also held that analogies with Native American law were inapposite. In addition, “there is no cognizable avenue for litigating a complaint about the judgment calls of legislators in their legislative capacity,”<sup>91</sup> and such claims may present a non-justiciable political question. Most damagingly, the *Cato* court saw its task as that of identifying any theory of liability under which *Cato* could amend her complaint and thereby avoid dismissal of her case. Yet the court was positively unable to identify any legal basis under which a reparations claim could be brought.<sup>92</sup>

Of course, simply because the court could not recast *Cato*’s claims in a manner that would avoid a motion to dismiss does not indicate that there is no way to do so. What is required for this type of lawsuit is an identifiable government official whose discriminatory act amounts (perhaps due to deliberate indifference) to the denial of constitutionally protected rights to a discrete set of individuals.

However, for such a suit to succeed, some act must be found whose effects can be said to be continuing to the present day. *Hobri* provides a particularly interesting comparison. The court held that “[o]nly one of the constitutional provisions on which plaintiffs rely can fairly

<sup>85</sup> The *Cato* court primarily addressed sovereign immunity; it did not consider the statute of limitations dispositive. See *id.* at 1107.

<sup>86</sup> *Cato*, 70 F.3d at 1109.

<sup>87</sup> *Hobri v. United States*, 586 F. Supp. 769 (D.D.C. 1984) *aff’d* 847 F.2d 779 (Fed. Cir. 1988) (emphasis added).

<sup>88</sup> 586 F. Supp. 769 (D.D.C. 1984) *aff’d* 847 F.2d 779 (Fed. Cir. 1988) (dismissing Japanese American Internment victims reparations claims on statute of limitations grounds).

<sup>89</sup> 402 U.S. 388 (1971). See *Cato*, 70 F.3d at 1110 (Thirteenth Amendment, *Bivens*); *Hobri*, 587 F. Supp. at 782 (*Bivens*).

<sup>90</sup> Tort claims brought under the Federal Tort Claims Act (FTCA) are unlikely to succeed because of statute of limitations issues. See *Cato v. United States*, 70 F.3d 1103, 1107 (9th Cir. 1995); *Hobri*, 587 F. Supp. at 793.

<sup>91</sup> *Cato*, 70 F.3d at 1110.

<sup>92</sup> *Id.* at 1105, 1111.

be interpreted to mandate compensation: the Fifth Amendment “takings” clause.”<sup>93</sup> The *Hobri* plaintiffs alleged that three types of property were “taken:”

- (1) property confiscated by federal authorities;
- (2) property lost as a result of the government's exclusion of plaintiffs from homes and businesses;
- (3) “vested constitutional rights” lost as a result of evacuation and internment.

Although the constitutional rights “taking” does not fit under a Takings Clause analysis,<sup>94</sup> the court held that the *Hobri* plaintiffs were able to state a claim under the Takings Clause on their other theories.<sup>95</sup> However, both the takings and the contract claims were barred under 28 U.S.C. § 2401(a), which imposes a six-year statute of limitations on such actions.<sup>96</sup> While, in dissent, Judge Baldwin of the Court of Appeals believed that the plaintiffs should be permitted to equitably toll the running of the statute of limitations on the grounds that the federal government fraudulently concealed information relating to the military necessity for relocating and interning Japanese Americans during World War II,<sup>97</sup> that argument is not available to most reparations claims.

More likely to succeed is the sort of lawsuit represented by *Pollard v. United States*,<sup>98</sup> a case brought by the survivors of the infamous Tuskegee Syphilis Study. The study was conducted by government physicians, who purported to treat the study subjects, all of whom were African American men. Instead, the doctors provided placebos in order to engage in a longitudinal study of the effects of syphilis. That plaintiffs sought damages under a theory of wrongful neglect. Because the physicians had concealed the non-treatment from the subjects, the court tolled the statute of limitations. However, there is usually no evidence of willful misinformation by the government in any reparations lawsuit, and so the statute of limitations remains a significant obstacle.

#### B. Legislation

There are a variety of legislative solutions that would permit some form of reparations litigation.

- (1) passage of H.R. 40, or some variant thereof, requiring Congress to create a commission to determine whether reparations are owed to the descendants of slaves, and determining how to apportion the money;
- (2) passage of an act, similar to section 354.6 of the California Code of Civil Procedure, extending or waiving the time in which a reparations suit may be brought;
- (3) passage of a series of acts, similar to Chapter 94-359 passed by the Florida State Legislature (the Rosewood Reparations Act), which would require that individual communities or companies compensated the victims of discrete acts of racial

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<sup>93</sup> *Hobri*, 586 F. Supp. at 782.

<sup>94</sup> *Hobri*, 587 F. Supp. at 783.

<sup>95</sup> *Id.* at 784.

<sup>96</sup> *Id.* at 784, 791-91.

<sup>97</sup> *Hobri*, 847 F.2d at 708 (Baldwin, Circuit J., dissenting).

<sup>98</sup> 384 F. Supp. 304 (M.D. Fla. 1974).

harassment or violence or their descendants for the acts perpetrated by those communities or companies.

Of these, the best option, is passage of H.R. 40. H.R. 40 mirrors PL 100-383, 50 U.S.C. app. 1989, which granted reparations to Japanese American victims of the government's internment policy (in other words, resolving the issues litigated in *Hohri*), and also Aleut Americans who were forced, for military reasons, to vacate their islands during World War II. The Act permitted the federal government to appropriate 1,250,000,000 to create a trust fund out of which reparations to each eligible individual of \$20,000 was to be paid. H.R. 40 does not go so far as to require such payments, but rather requires a commission to examine the "role which the Federal and State governments of the United States supported the institution of slavery in constitutional and statutory provisions,"<sup>99</sup> to "recommend appropriate remedies,"<sup>100</sup> and to determine "[h]ow, in consideration of the Commission's findings, any...forms of compensation to the descendants of African slaves is warranted."<sup>101</sup>

### C. *Extension or Waiver of Statutes of Limitations Filing Periods*

Because statutes of limitations are more a "legislative grace" than a "fundamental right," they are subject to a "large degree of legislative control."<sup>102</sup> Accordingly, the statute of limitations preventing suits against the government, or against other entities that profited from slavery or Jim Crow segregation may be extended or waived by appropriate legislation.<sup>103</sup> An example of such legislation already exists: Cal. Code Civ. Proc. § 354.6(b) provides that:

Any Second World War slave labor victim, or heir of a Second World War slave labor victim, Second World War forced labor victim, or heir of a Second World War forced labor victim, may bring an action to recover compensation for labor performed as a Second World War slave labor victim or Second World War slave forced victim from any entity or successor in interest thereof, for whom that labor was performed, either directly or through a subsidiary or affiliate.

The section was enacted to permit the victims of slave or forced labor who worked in Nazi concentration camps to bring suit against German corporations who employed slave laborers during the Second World War. Germany has created a variety of Slave Labor Reparations funds under various international treaties which permitted a suit for reparations to be filed, at the latest, on November 7, 1999.<sup>104</sup> However, such treaties were subject to a ten year statutes of limitations. *Id.* at 463. In order to permit slave or forced labor victims or their heirs to bring suit, the California legislature extended the filing deadline until

<sup>99</sup> HR40 § 3(b)(2).

<sup>100</sup> HR40 § 3(b)(7).

<sup>101</sup> HR40 § 3(b)(7)(C).

<sup>102</sup> *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 314 (1945).

<sup>103</sup> See, e.g., Suzette M. Malveaux, *Statutes of Limitations: A Policy Analysis in the Context of Reparations Litigation*, 74 GEO. WASH. L. REV. 68 (2005).

<sup>104</sup> See *Iwanowa v. Ford Motor Co.*, 67 F. Supp. 2d 424, 448 - 456 (D.N.J., 1999). In addition, the *Iwanowa* court found that Iwanowa's forced labor claims raised nonjusticiable political questions, in part because foreign policy issues are to be determined by the political departments of the government--the executive branch and the legislative branch. . . . [W]ar reparations fall within the domain of the political branches and are not subject to judicial review." *Iwanowa*, 67 F.Supp.2d at 485.

December 31, 2010. Cal. Code Civ. Proc. § 354.6(c).<sup>105</sup> Subsequently, however, the section was determined to be unconstitutional, because it usurped Congress's power to regulate foreign affairs.<sup>106</sup> The district court failed to comment upon the legality of the statute of limitations provision,<sup>107</sup> and so it would appear that such an extension of a statute of limitations would pass constitutional muster.

### C. Targeted Legislation

There are a variety of specific acts of discrimination that may be amenable to a legislative solution, as exemplified by the response of the Florida legislature to the treatment of the descendants of the Rosewood massacre. In passing Chapter 94-359, the State of Florida acknowledged "local government officials were on notice of the serious racial conflict in Rosewood . . . and had sufficient time and opportunity to act to prevent the tragedy, and nonetheless failed to act to prevent the tragedy." The legislature further acknowledged that victims who were living in Rosewood at the time of the racist attacks upon them "each suffered compensable damages of at least \$150,000," and appropriated \$500,000 to compensate "African-American families of Rosewood, Florida, who demonstrate real property and personal property damages sustained as a result of the destruction of Rosewood."

A noteworthy feature of the successful state-sponsored reparations legislation, whether tolling the statute of limitations or directly compensating the survivors or descendants of racial violence, is that the remedy is targeted to an identifiable wrong. Targeted remediation requires historical research to identify particular agents and acts of discrimination, and the relevant group of potential claimants. That historical inquiry makes possible legislation framed in a manner much closer to a traditional individual rights claim. These forms of reparative legislation are therefore much more closely related to the Japanese American internee claims and legislation. Likewise, H.R. 40, though having a much greater scale, is similarly structured to traditional civil rights remediation. This sort of legislative initiative provides an opportunity to provide justice to restore and empower communities based on the wrong done and the harm they continue to suffer. Along the way, HR40 enables us to educate the public in diverse ways about the continuing effects of chattel slavery and Jim

<sup>105</sup> "Any action brought under this section shall not be dismissed for failure to comply with the applicable statute of limitation, if the action is commenced on or before December 31, 2010." Cal. Code Civ. Proc. § 354.6(c).

<sup>106</sup> See *In re: World War II Era Japanese Forced Labor Litigation*, 164 F. Supp. 2d 1160 (N.D. Cal. 2001).

<sup>107</sup> The court held that the section 354.6 "(1) . . . demonstrate[s] a purpose to influence foreign affairs directly, (2) the statute targets particular countries, (3) the statute does not regulate an area that Congress has expressly delegated to states to regulate, (4) the statute establishes a judicial forum for negative commentary about the Japanese government and Japanese companies, (5) the Japanese government asserts that litigation of these claims could complicate and impede diplomatic relationships of the countries involved, and (6) the United States, through the State Department, contends that section 354.6 impermissibly intrudes upon the foreign affairs power of the federal government." *Japanese Forced Labor Litig.*, 164 F. Supp. 2d at 1173. But see *Gerling Global Reinsurance Corp. of America v. Low*, 240 F.3d 739 (9th Cir. 2001) (permitting suit under Holocaust Victim Insurance Relief Act of 1999, Cal. Ins. Code §§ 13800-13807, as only indirectly impacting foreign affairs). The district court also dismissed claims brought by United States nationals against the Japanese government in a separate opinion, entered on September 21, 2000, holding that their claims were barred by a treaty between the United States and Japan waiving reparations. *In re: World War II Era Japanese Forced Labor Litigation*, 114 F. Supp. 2d 939, 945 (N.D. Cal. 2000).

Crow laws, as well as drawing analogies to legislation that has already passed in the various states.

#### VI. CONCLUSION

The federal government has been slow to acknowledge the multiple ways it has actively participated in, and passively facilitated, race-targeted dignity harms that have a continuing effect on African American communities throughout this nation. Many other institutions have taken a leadership role in addressing the wrongs of slavery and segregation, and seeking to provide some form of restorative justice. It is time that Congress joined the various states, municipalities, universities and private organizations investigating the invidious legacy of the slave trade so as to promote a frank and open-minded discussion of the impact of slavery on race in America.

Mr. COHEN. Thank you, Professor Miller.

We will now proceed under the 5-minute rule of questions. And I will begin now by recognizing myself for 5 minutes.

Mr. Ta-Nehisi Coates, in your article, "The Case for Reparations," you state: 250 years of slavery, 90 years of Jim Crow, 60 years of separate but equal, 35 years of racist housing policies. Until we reckon with our compounding moral debts, America will never be whole.

Why should the Federal Government bear responsibility for economic and social damages to the descendants of the enslaved?

Mr. COATES. I thank you, Chairman Cohen. I think the most obvious reasoning is because the Federal Government is complicit in it. The article that you spoke about—this period of white supremacy that you referenced in the headline, it is so broad that, if I tried to cover it in one article, it would have been impossible. So I focused on a very specific thing, and that is the period of Jim Crow and housing segregation and redlining, specifically in the city of Chicago.

The Federal Government should pay because the Federal Government was deeply complicit in housing segregation and redlining and in the plunder of Black homeowners in Chicago. It would not have existed if the FHA had not had a policy of not ensuring loans for Black people living in Chicago. It would not have existed if not for the redlining maps which were written and created by this government of every major city in the country, which effectively relegated Black people, whether they had a down payment or not, outside of a class of people who could benefit from a movement which basically created our modern middle class. And so I don't know how it would be possible to exempt the Federal Government from such a process.

And, furthermore, I just have to make this point over and over: Many of the people who were victimized by housing segregation and by redlining are very much alive today. So this is not strictly about the past. This is identifiable victims, as Dr. Miller—as Professor Miller—said, who were there and who are ready to be part of the process.

Mr. COHEN. Thank you, sir.

Reverend Sutton, let me ask you, you heard Mr. Hughes' testimony and said he didn't want reparations. Do you believe—and this would be a study of reparations—H.R. 40 draws no conclusions; it would be a study—do you believe that there should be exclusions for wealthy folks who have been successful and maybe emphasize deeds and works and actions that help the people who have not achieved as much and lift them up?

Rev. SUTTON. I believe that one of the reasons why it was so widely accepted in my—I believe one of the reasons why the vote for reparations was so widely accepted in my diocese is because we separated it from Black descendants of slaves getting checks. We are talking about funding initiatives, programs, addressing issues, such as mass incarceration. And when that is explained to people that that is a reparation, that is repairing something that can be traced to slavery, then that is the case.

Personally, I am not looking for a check from the Federal Government or from my church or anything. I am concerned about

those who have been left behind, the masses of African American descendants of slaves who are mired in hopelessness and despair in communities of crime, violence, poverty, and racism.

And so I think if we can at least have a civil good conversation on the concept of reparations, then talk about money because the moment you start talking about money, the idea, especially among many White persons—"I am going to give a check to Black persons? What about me?"—the moment you begin with money, then the resistance goes up. Let's talk about the concept.

Finally, in relation to your question, we have a problem in this Nation of being able to talk civilly about race. And when I am talking for reparations, I am talking about those who are left behind, but I am actually talking to my White brothers and sisters. You need this more than we do. You need this for your soul. You need this to be able to look Black persons in the eye and say, "I acknowledge the mistake, and I want to be part of the solution to repair that damage."

Mr. COHEN. Thank you, Reverend Sutton.

As Reverend Sutton speaks to the soul, Dr. Malveaux, you speak to the economics. And if some of this efforts to remediate the past, as Dr. Ogletree has spoken about, a massive influx of moneys for health, education, and job training, if some of that went into areas where there are large concentrations of descendants of slaves who have not succeeded for a myriad of reasons and if some of that went to White folks who were there who also are living in bad conditions, would that be a problem do you think, Dr. Malveaux, or would that just be helping everybody that is in a miasma?

Ms. MALVEAUX. Chairman Cohen, it is really interesting that right this minute, as we are having this hearing, Reverend William Barber is having a hearing on poverty. So this is a great day for economic justice issues. Poverty is a problem in our Nation. But you can't fix poverty nor can you fix inequality unless you deal with racism. And dealing with racism is about dealing with reparations. I am with the Reverend here—I don't care about a personal check made out to Julianne Malveaux or anybody else. How about we fully fund our Historically Black Colleges and Universities? How about—once upon a time, Brother Chairman, we had more than 100 Black-owned banks; now we have 23. How come? Again, the Devil is busy. Pernicious legislation that basically caused people to lose banks, changing in reserve requirements, and things like that, gentrification. While you have empty swaths of land all over other Nation, why not deal with that?

So I respect your question about areas, but I think that really does speak to our dis-ease, our uneasiness in talking straight up, upfront about race. Race is our Nation's second original sin. The first was what we did to Native people. Racism enslavement was our original sin, and we have got to deal with reparations by dealing exactly with that. If we want to have an American Marshall Plan that deals with all poor people—Reverend Barber says there are 140 million poor people, 43 percent of our Nation—let's deal with that. But let's not forget that race is central to anything we do around economic justice.

Mr. COHEN. Thank you, Doctor.

My time has expired. And I recognize the ranking member Mr. Johnson for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman.

And, again, thank you to all of you for your time and your heartfelt sentiments. And we know they are sincere.

Mr. HUGHES, I want to thank you for your honesty and your humility and your courage, sir. I know this isn't easy today.

Here is a big question that hangs over all of this and that all of us need to I guess address. Look, many people believe, on all sides of the political spectrum, that racial inequality that we see today is not entirely attributable to the legacy of slavery and Jim Crow. It is a factor, but it is not entirely attributable. Can you elaborate on what some of the other causative factors may be?

Mr. HUGHES. Well, the first thing I would say is that blaming slavery and Jim Crow for the entirety of racial disparity—obviously, it is clearly a factor—but blaming it for the entirety of the problems we see today facing Black people is actually a way of not taking responsibility for policy decisions that were made just in the last 50 years. Our prisons did not balloon until the 1980s. Unemployment for Black and White youths were virtually identical until the late 1950s, the early 1960s. So, perversely, by blaming slavery and Jim Crow for everything, we actually fail to take responsibility for policy decisions that were made on both sides of the aisle in very recent history.

Secondly, I would say that there is a naive assumption that, wherever there is a statistical gap in outcomes between two groups, that that gap must be attributable to some kind of discrimination, whether that is overt or whether that is structural in systemic. That assumption is not true. Okay. Just, I will give one example, but I could give dozens. According to 2015 Census figures, there is a 21 cents on the dollar gap, 21 cents on the dollar gap in household income between White Americans of Russian descent and White Americans of French descent. Right? Disparity is the norm, not the exception.

So the question is not why two groups would have different outcomes, whether it is for wealth, income, or incarceration. The question is why we would expect any two groups with different histories, different geographical patterns, different patterns of migration, different cultures to nevertheless get exactly the same outcomes.

Mr. JOHNSON. Thank you for that.

Mr. Owens, thank you as well. And I was moved by your testimony about the fact that we are fighting for the heart of our Nation. I think everybody in this room as part of the American family understands that we see it different ways.

Here is a question, in your opinion, is there a formula that allowed the African American community to achieve the measures of success during the '40, '50s, and '60s that is missing today?

Mr. OWENS. There is. And I am going to point to Booker T. Washington to tell you what that formula is.

First, I want to set up a few things, square a few things away. I had been talking about restitution a little bit ago, and I have so much respect for the Black men and women who built that great Wall Street out of Tulsa. Not only did they have—they had 60 mil-



lionaires. They had international business. Within 12 hours, it was destroyed by air by Democratic KKK. A lot of White—they were White people, yes, but they were part of a certain party. Forty acres and a mule, that was actually implemented. But when the Democratic President Andrew Johnson took over, they took that land back. They took away their guns, and then they took away their land.

KKK, inside of the Democratic Party by the way, they lynched 4,700 people; 1,500 of them were White Republicans. So, yes, we have a lot of evil going on, but let's not broadbrush this guys. There is a certain ideology that certain people that belong to a certain area, a certain niche, we need to hold them accountable. And so let's do that, and I think we are in good shape.

Booker T. Washington had four foundations: It was head, heart, hands, and home. In that process, head is education; heart is compassion and service; hands are industry entrepreneurship; home is family. The reason why my race were kicking butt—the history is not being told—they were beating—they were so busy, they weren't looking at finding somebody to blame for where they were. They were busy beating out these racists. That is what my parents did. At the end of the day, they held on to those principles for decades until the socialists and Marxists got into our community and they stopped educating our kids.

I said something earlier, and there has not been aghast—75 percent—2017, the Department of Education study, 75 percent of Black boys in the State of California cannot pass reading and writing tests. And you wonder where they are going to go from here? They are not going to learn anything about our country. They are not going to read about our God. They are not going to hear anything about what we the people have done together. They are going to turn on BET and hear how bad they have been treated. They are going to hear how bad our country is, how bad White people are. They are going to be taught how to disrespect our women, and they are going to be put in jail. And then we are going to sit around and talk about why is this being done.

Let's put a commission together: Why is this happening with so many of our kids not being educated in every single urban American city in our country? That is what our problem is.

As we ho-hum and we blame people from years ago, we have yet to put together a commission. How about this one: 82 percent of Black teen males across our country in the last 8 years, unemployed, soon becoming unemployable; 92 percent in our liberal city of Chicago, where we are killing each other right and left, and there is not one commission, not one peep about this misery that is going on in our country.

I have something I put in my book. I am going to read this real quickly: Evil is the person who is stealing the hopes and dreams and future of an individual. Pure evil is the target of a race of millions and using human misery as political strategy to steal their hopes, dreams, and future.

We are dealing with pure evil, to have my race dealing with the evil, the misery that we have been dealing with, and no one says a word, other than: Let's look back and see what has happened for 200 years ago.

Let's deal with today, and I think we will be in good shape.

Mr. JOHNSON. Thank you for that.

I am out of time. I yield back.

Mr. RASKIN [presiding]. The gentleman's time has expired. Thank you very much.

The chairman of the Judiciary Committee is recognized for 5 minutes.

Chairman NADLER. I thank you. I am going to ask one question and then yield to the gentlelady from California, Ms. Bass.

Mr. Coates, Senate Majority Leader Mitchell McConnell on Tuesday said that he does not support reparations for descendants of slaves saying, quote: I don't think reparations for something that happened 150 years ago for whom none of us currently living are responsible is a good idea. We have tried to deal with our original sin of slavery by fighting a Civil War, by passing landmark civil rights legislation. We elected an African American President.

There is an unconscionable denial and lack of knowledge in this Nation about the true nature of facts and current consequences of the transatlantic slave trade and the enslavement of African American people upon which American democracy, prosperity, and White privilege are founded.

Mr. Coates, based on your monumental essay in *The Atlantic Magazine*, "The Case for Black Reparations," can you please describe briefly some of the continuing impacts and vestiges of the enslavement era on living African Americans today?

Mr. COATES. First of all, one of the things I tried to make clear in my testimony is that we perceive the era of enslavement, the era of Jim Crow, and in fact, I would actually even add the era of mass incarceration as separate things that are somehow not tied to each other.

The greatest damage that enslavement did, besides the economic damage, besides the normalization of torture, of rape, besides the normalization of treating people as though they are things, is the institution in the American mind that Black people are necessarily inferior.

In 1865, when Black people were emancipated, that belief did not magically dissipate. It proceeded for 100 years afterwards. It proceeded, as I said in my testimony, well into the lifetime of many panel members, Chairman—sorry, Majority Leader Mitch McConnell, and many of the people in this audience. So it is not a matter of the past. These things are linked. It has been said, I think, or alluded to repeatedly throughout this conversation that somehow wealthy African Americans are immune to these effects. But in addition to the wealth gap that is cited, one thing that folks should keep in mind is that quote/unquote "wealthy African Americans" are not the equivalent of quote/unquote "White Americans" in this country. The average African American family in this country making \$100,000, you know, decent money actually lives in the same kind of neighborhood that the average White family making \$35,000 a year lives in. That is totally tied to the legacy of enslavement and Jim Crow and the input and the idea in the mind that White people and Black people are somehow deserving of different things.

If I injure you, the injury persists even after I actually commit the act. If I stabbed you, you may suffer complications long after that initial actual stabbing. If I shoot you, you may suffer complications long after that initial shooting. That is the case with African Americans. There are people well within the living memory of this country that are still suffering from the after-effects of that.

Chairman NADLER. Thank you very much.

I yield to the gentlelady from California, Ms. Bass.

Ms. BASS. Thank you very much, Mr. Chair and all of the witnesses that are here today and Representative Jackson Lee, for doing this legislation.

And, you know, this is just such an important moment in our history. But I just wanted to spend a couple of minutes talking about how we have viewed this issue and why we are even having this hearing today. It is so important because I believe that, in this country, we have never been able to come to grips with our history. We either don't know our history, or we deny it. When we talk about the 250 years of enslavement, we call it a sin. We call it a mistake. We say that it was a subset of Americans, not the entire Nation. We say it was inconsistent with the values of our Nation's founding, that it was something that happened long ago, and why can't we get past it? Why can't we move on? Why do you keep bringing it up? Slavery might have ended in the mid-1800s, but apartheid and terrorism lasted for 100 years after that. We passed a bill on lynching last week. Why did we even have to do that? There was a man that was executed 2 weeks ago for a lynching that took place in Texas. There are many murders that have happened that people are still wondering whether or not they were lynching. We have to say that, in our country, we pride ourselves with our development, but we refuse to acknowledge that the reason we have the development that we do is because the first 200 years of our history was done with free labor. The South enslaved African Americans, but the North's economy flourished by that. And I believe that our economist explained in detail of that.

So our fundamental problem is our ignorance of history or our refusal to admit it. Everyone understands the pain caused by people who deny the Holocaust. Deep pain is caused by this, and deep pain is caused by our country that cannot acknowledge what has happened here.

I want to say that it should be obvious, but the entire Congressional Black Caucus supports this legislation. We have problems denying—we think that racism sometimes it is trivialized as behavior, as ideas, and that we are all equally racist because we refuse to accept the fact that racism is ingrained in our institutions. We say that there must have been something that 12 year old did to have gotten shot. We say that there must have been a reason that that police officer pulled that gun on that pregnant woman last week with her two babies. We don't see the connection between this because we refuse to admit it.

H.R. 40 calls for the establishment of a commission. It does not call for checks. We trivialize reparations by saying that these are just African Americans that want to be paid. I think Mr. Coates goes into details about reparations meaning much more than that.

And then, frankly, when I hear from my colleagues on the other side of the aisle that we need to be encouraged to work harder, to pull ourselves up by our bootstraps, that we can actually achieve, that that is the only thing that is the problem, and then to talk about the Democratic Party, I think maybe people don't remember who Fannie Lou Hamer was? Black folks fought the Democratic Party. Nobody acts as though the Democratic Party was not a racist party until there was a movement that fought for justice.

I am glad that we are having this hearing today. I thank my colleagues for doing it. I look forward to this legislation moving to the floor. And, once again, I just want to emphasize, at what point, can we in this country have a conversation about race? We will never get past it until we can have the conversation, and the conversation begins with the commission. Thank you.

Mr. COHEN [presiding]. Thank you, Congressman Bass. And I would now like to recognize—

Mr. GLOVER. Excuse me, let me have a word, please. Because I wear several hats and certainly most people consider me the one hat and know me from the hat I wear as an artist and an activist and an artist. But I worked for the city government for 6 and a half years in 1971 in the Model Cities Program in San Francisco, California. I was at the mayor's office and Joseph Alioto. For 6 and a half years, I worked both in the Mission and in the African American community at that particular point in time. And most of that was the realization of what we were—the programs about the Great Society, the programs that came about. And I have seen—I saw those programs get eviscerated. Those programs in the sense designed to bring great opportunities and great hope lasted only a short period of time. So I certainly understand that because I have lived in the same community my entire life in San Francisco. My mother, a migrant, someone who met my father and came to San Francisco after World War II. They became—they had descent jobs. They worked for the post office in 1948. They were able to raise a family on that income as well. They were able to eventually buy a house in the same neighborhood that I live in right now. Also, they were part of that generation who were the first beneficiaries of the upcoming and ongoing civil rights movement. I have watched that city and worked in that city. And I am just talking about the city of San Francisco, this liberal city that has this great tradition around labor and everything else. We talk about Harry Bridges and what he did and longshoremen and bringing African Americans into longshoremen. And then I watched the evisceration of the cities and people's lives because of crack cocaine and mass incarceration as well right in my neighborhood, right in my family. So those are the kind of long-term impacts that we don't realize that happened. Those children who were the descendants, not only slaves but descendants of the those, the generation who had the opportunities after World War II, those children did not have the same opportunities.

And now those children are abandoned as adults in that city, in that great city.

So I think we have to kind of look at this, as people said often, that this is just a study of look at racism and all of its manifestation and can't—in terms of gentrification as well. I was in the Fill-

more area in 1966 going to Western District Community Organization meetings, where people were desperate to find different ways in which they were not being removed from their communities. These are real issues that happened. They are longstanding issues that go back and find themselves resonating in slavery and going further—all the material that we have, all the books that we have now, all the studies that have been done has outlined that. We have to begin to say—to tell ourselves the truth. James Baldwin, the great writer, once said, if cannot tell ourselves the truth about the past, we become trapped in it.

And that is what we are. We are trapped in it. This country is trapped in the truth—not telling the truth. And we got to find, we got to start—that is the leverage right there. Begin to we talk about any of it. We talk about education, Bob Moses has talked about math literacy is important. And most children, particularly children of color, aren't prepared for math literacy. We have to talk about education and preparing our children for 21st century citizenship. And that is what it is. And this is what this is talking about. If we raise the boat of those people who have been most disadvantaged historically, we raise—we create a better country here.

Mr. COHEN. Thank you, sir. Thank you very much.

Ms. MALVEAUX. Chairman Cohen, may I—

Mr. COHEN. No. We can't. We are not going to get out of order. I gave—no, ma'am. I gave Mr. Glover great respect. But the panel and the way we operate is we go from member to member, and they can ask questions. And if somebody—the next person wants to ask you, they can ask you.

Representative Cline, you are recognized for your 5 minutes.

Mr. CLINE. Thank you, Mr. Chairman.

I want to thank the witnesses for being here.

Mr. Coates, I followed your career with interest.

Mr. Glover, I am a big fan.

And I want to thank the witnesses for their remarks.

Mr. Hughes, I wanted to ask if there was anything that was said previously that you would like to respond to.

Mr. HUGHES. Yeah, I would like to address myself to the comments made on the subject of us not knowing our history, of us not having told the truth about slavery and Jim Crow.

It strikes me that this is not exactly true. Mr. Glover mentioned all of the studies and books that have been written on the subject. I would argue, in fact, that in the 10,000 year history of slavery on every continent, there is not a single example of slavery that has been more studied than slavery in America from the 17th century to the 19th century. So it is actually not true that we have not told the truth, that we don't know our history.

Moreover, in the past 50 years, if we are talking about what scholars in America—in the American social sciences have directed their attention towards, it is hard to find a subject on which more books have been written that has been more studied than racial inequality.

Thank you.

Mr. CLINE. Thank you for that.

Mr. Owens, I followed your career with interest as well. Can you speak to, specifically your career in the NFL—and also, you spoke

of your family—what was the greatest legacy or lessons from your family that brought you to the opinions that you hold now?

Mr. OWENS. The greatest legacy from my dad who served in of war, World War II, came home. Could not do his postgraduate down in Texas because of Jim Crow laws. So he put out a lot of letters. Ran across of a box when he passed away of hundreds of rejection letters. He used that as motivation because he eventually got to Ohio State where he got his Ph.D. and went on to become a very successful entrepreneur, college professor, researcher, and someone who was very proud of our race. He reached back to his very last days to the young people giving him hope that this country, they can succeed and if they really wanted to. And if they pull themselves up by their bootstraps, worked harder than the next guy—that is not a racist deal, guys. That is the American way. We work harder than the next guy.

The greatest legacy from him was my belief that I would do everything I could to make sure he was proud that I held his name. The greatest thing from my mom—from my dad is I never ever even thought about disrespecting Mom.

We have come to a point where we allow our young men to disrespect women. I think there is no consequences. We are not going to develop men if we allow our boys to call our women baby mamas and everything else in the book and not pull them aside and tell them it is wrong.

It is about policies, guys. It is not about 200 years ago. We have kids in the State of California that—there is against anti-choice, by the way. These kids are stuck in these failing schools because we have a party that is against them moving on to someplace else. We have a Davis-Bacon Act, 1932, put in place specifically to help to stop Blacks from competing against White unions, still in place today. You wonder why we have so high unemployment, why our business ownership has gone from 40 percent down to 33.8 percent.

By the way, a higher minimum wage is not as good as it sounds. It keeps our young people out of work. It keeps them—they are too expensive to hire even to get started if you have high minimum wage. Now, the unions benefit from that, by the way.

And open borders hurts our race, period. Period. It is common-sense. If you have non-Americans coming in while working for lower wages, we get hurt first. We got to understand this. And let's get this thing right, guys. It is about our people, my race. We are just as good as anyone else out there given the right opportunity and not told that we can't. But us raising our kids and telling them that, because of their skin color, they are already against every opportunities out there, it is stealing their dreams. We can't afford to do that.

So my parents' generation, the Greatest Generation in the history of mankind, told us to dream big and wipe out those other guys that are working harder and showing them they are wrong, and we did that.

Mr. CLINE. Thank you for that.

Thank you, Mr. Chairman. I yield back.

Mr. COHEN. Thank you, sir.

Mr. Raskin is now recognized for 5 minutes.

Mr. RASKIN. Mr. Chairman, thank you very much. I am looking for some points of—

Mr. COHEN. Excuse me, Mr. Raskin. I am sorry.

I saw Mrs. Lawrence here earlier, and then she disappeared, and she is back. And I want to recognize the distinguished—I am sorry. Mrs. Lawrence was here, and she is gone. She was sitting there. And Mrs. Beatty is here now.

So, Mrs. Lawrence, thank you.

Representative Raskin, you are on.

Mr. RASKIN. Thank you, Mr. Chairman.

Both sides seem to agree this is something that should have been done long ago. I think I heard Mr. Hughes say that, and I think, Mr. Coates, you said that. There was an effort after the Civil War in Reconstruction organized around a field command I think President Lincoln issued to redistribute 40 acres and a mule, and it never happened. And it was interrupted. And then we had a period of a decade of active national investment in Reconstruction in the South that was undone by white supremacy. And so we were never able to follow through on the political, economic, and social promise of Reconstruction.

So, given this history and the distance between now and slavery and then the continuing injuries of racism with Jim Crow and with the sharecropper system and the criminalization of the African American population after the Civil War, what—Mr. Coates, let me ask you. What are the differences in approach that have to be taken now given the distance of time that has lapsed than if it had been done completely right after the Civil War and Reconstruction had been allowed to run its course for a period of several decades before the so-called redemption took place?

Mr. COATES. Sure. If I could just address the notion of slavery having been well-studied and understood.

I think my fellow panel member is quite correct that, at this moment in history, it is certainly true that the system of enslavement in America has probably been the most studied in America. That is not particularly surprising given the extensive and revolutionary and wide system of universities we have in this country, which is also probably unprecedented and also probably a new development also.

But I think, even given that, it is worth noting the lack of penetration that those studies have had into the American mindset. I don't know if it is still here, but relatively recently, there was a statue garden here in the Capitol that I believe had statues of General Lee and Alexander Stephens. And one has to ask, if, in the Capitol, people understood the history of this country, why there would be statues honoring people who led a revolution or destroy it? One would have to ask, if that history were well understood why, and for instance, the State of Mississippi there still was a flag flying dedicated to people who tried to destroy this country? Why only a couple of years ago we saw the murder of Heather Heyer, and that was precipitated by a movement to erect a new group of statues and remove the statue of General Lee?

And so, while it has been well studied, I don't know that Americans quite understand it. At this very point, you can get at least a plurality of White Americans who will tell you that the Civil War

was about States' rights with no conversation about States' rights to do what.

In terms of the differences in approach today, what I would say is that is why we need H.R. 40. That is exactly what we are here to discuss in the first place. I am very skeptical of the notion that one person should stand up and speak for our 40 million African Americans, that one person should stand up and speak for all the generations that came before me.

I think the proper thing to do is, A, for this body to convene a committee and convene a discussion to study exactly what the damage was and what potential remedy might be offered and also to convene conversations around the country.

Just attendant to that, I also would like to say there has been a lot of, shall we say, shade throwing on the notion of cutting checks. I just want to say, you know, in the spirit of openness, in the spirit of actual study, I don't think we should necessarily rule out cutting checks. There are people who deserve checks. And I think that actually should be part of the study. We aren't ruling out any solution. I don't think we should rule out that one either.

Mr. RASKIN. Well, thank you for your emphasis on what H.R. 40 will do. It will set up a commission to study all of the different dimensions and ramifications of reparations and what it means, because I think one of the productive aspects of this conversation has been that we have learned that it is not just about cutting checks although it is not to the exclusion of that. But it is about rethinking our relationship to this whole history, which has been so injurious to so many of our people.

Let me focus on the question of the congressional role because I am moved by the fact that it is Congress that is taking this up seriously. As we said before, enslaved Americans helped to build the Capitol where Congress meets. Enslaved Americans helped to build the White House where the President sleeps. And there was a slave market across the street where the Supreme Court stands today. And, of course, that was the Supreme Court that gave America the Dred Scott decision in 1857, and the Supreme Court that gave us Plessy v. Ferguson in 1896, and recently gave us Shelby County v. Holder and Shaw v. Reno in the undoing of the modern civil rights movement, the modern Reconstruction.

But my question here is, why is it that Congress should be the one to act? You would think that we would rely on the Supreme Court for justice in the country. But people are coming to Congress to act. And, you know, perhaps, Reverend Sutton, let me come to you about that. By the way—and I do have to identify the fact that we have two great Marylanders here today. One is Mr. Coates and one is Reverend Sutton, and we are very proud of both you.

So, Reverend Sutton.

Rev. SUTTON. First off, let me say that I am a bit dismayed and appalled that my brother panelist here, when we are talking about reparations goes to family and all—of course, we are all hard-working, and, of course, we are for families. I just don't want the impression to be that if those are for reparations don't know about the role of family.

Mr. RASKIN. While we are on that point, let me just ask you—



Rev. SUTTON. Okay. And why Congress. Because you are leaders and legislation helped to get us into this mess, legislation has a role. The church has a role. Our educational systems have a role. And maybe even the Supreme Court and hopefully the President.

But your role is to redress some of what your predecessors did in this Congress. And so I think you are the only body that can call for this commission that desperately needs to happen.

Mr. COHEN. Thank you, Reverend.

And thank you, Mr. Raskin.

I would now like to recognize Mr. Gohmert from Texas for 5 minutes.

Mr. GOHMERT. Thank you. And I appreciate the witnesses being here.

And, Mr. Glover, any time I see your name listed as being in a movie, I normally say that is one I will enjoy and appreciate your body of work throughout your career. You have provided a great deal of enjoyment, even in the dramas, so thank you for that.

I had a colleague mention an execution in Texas. And that was—the incident arose down in Jasper where three White men drug a Black man to death. Now, I have supported the death penalty. I was a judge who was—assessed the death penalty. And I wouldn't have a problem with a law that said, in a situation like that, the victim's family can choose the manner and means of carrying out the death penalty. But we don't have that law.

That case was also heralded as the poster case for needing hate crime legislation when, actually, under the hate crime legislation that was so heralded in the past, there is no death penalty. The only way these guys got the death penalty finally after 21 years—the most culpable guy finally was executed here recently; he should have been. The death penalty I hear constantly being referred to as being racist. I know, in my own court, the statistics will show that I had three individuals charged and tried for capital murder. Two were White; one was Black. Based on the jury findings, I assessed the two White men to be put to death, and the Black gentleman was sentenced to life for his murder. The hate crime laws had nothing to do with actually carrying out the executions in the appropriate case as they were in Jasper.

I also heard a colleague talking about it is critical to know our history. And I have some screenshots here from the Democratic Party's history that says our history. And I ask unanimous consent to submit that for the record.

And it is interesting—and also, this Wall Street Journal article, "The Democrats' Missing History."

Mr. COHEN. Without objection, it will be entered.

**MR. GOHMERT FOR THE OFFICIAL RECORD**

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Mr. Gohmert for the record: *<https://www.wsj.com/articles/SB121856786326834083>*.

Mr. GOHMERT. I'd ask unanimous consent on both of those, so thank you, Mr. Chair.

There is no reference in the history of the Democratic Party platform supporting slavery. There were six of those from 1840 to 1860. No reference to Democratic Presidents who owned slaves. There were seven from 1800, 1861. There is no reference to the number of Democratic platforms that either supported segregation outright or were silent on the subject. There were 20 from 1868 to 1948. No reference to Jim Crow laws nor is there reference to the role the Democrats played in creating them. These were the post-Civil War laws passed enthusiastically by Democrats in that pesky 50-year part of the DNC's missing years.

Also, there is no reference that three-fourths of the opposition of the 1964 Civil Rights Act, what came in the House from Democrats, or that 80 percent of the nay votes in the Senate came from Democrats. There is certainly no reference to the fact that the opposition included future Democratic Senate Leader Robert Byrd from West Virginia; former Klan member of Tennessee, Senator Al Gore, Sr., father of Vice President Al Gore. And last but certainly not least, there is no reference to the fact that Birmingham, Alabama, public safety commissioner, Bull Connor, who infamously unleashed dogs and firehoses on civil rights protesters was, in fact, a member of both the Democratic National Committee and the Ku Klux Klan.

So it is important that we know our history and we not punish people today for the sins of their predecessors in the Democratic Party.

VOICE. You lie.

Mr. GOHMERT. I just stated all facts. And, again, we have people who are denying history. That is not helpful to our discussion.

But, Mr. Owens, I would ask you, understanding that today's claim that the Republicans are the party of racism, what do you think your great, great—your great-grandfather Silas would have said to someone who claims the Republicans are the party of racism?

Mr. OWENS. Well, my great-great-grandfather lived through that period, and he wouldn't have said that because, at that time, all Blacks were Republicans because that was the party that gave them freedom.

Mr. GOHMERT. Let me just ask: Have you suffered for taking these conservative positions?

Mr. OWENS. Well, I guess what it comes down to is—I don't think I have suffered at all. I am thankful for growing up in an age where—I was the fourth—of the fourth Black American to be given a scholarship at the University of Miami. I was one of the first Blacks to integrate in the schools. So I understood exactly what racism looked like and how it felt.

But my mom said one thing very—I remember specifically that I was kind of going through this phase. She said, "Burgie, make sure you don't let somebody else's problem become yours." In other words, "Burgess, don't let a racist let you become one."

The other thing is that my dad taught us very simply to be a leader. If it was right, do it. If it is wrong, don't. I love my country.

I love my race. I love my family. And that becomes all the other stuff of being accepted or liked. It makes no difference to me.

We are at a very, very important point in our country today where Black Americans are waking up. And I know that a lot might not agree what I am saying. That is okay. Just listen. And with time, let it simmer a little bit. Look around and see where our misery is being done today. Our misery is in the urban communities throughout our country where our kids have no hope, no jobs, no family, no dad, and no one to tell them they can make it.

If we understand that and we take responsibility that every single generation has done in our past to make sure the next generation feels better about their opportunities then less, we are failing them big time if we don't change our narrative. These kids can do it. We just have to believe in them, give them opportunities, and tell them man up, woman up, it is okay if things get wrong. Things go sideways for every person that lives or God wouldn't be a fair God. When you go sideways, stand up, man up, woman up, and let's get back on the track and get after your dreams and get this thing done with.

Mr. COHEN. Thank you, Mr. Owens.

Mr. GOHMERT. I appreciate—

Mr. COHEN. The time is up for Mr. Gohmert, and we are going to move on and—

Mr. GOHMERT. I thank all of you for being here today.

Mr. COHEN. First, I would like to recognize Congressman Plaskett who is with us today.

I would also like to have another reminder to the crowd: The next person that screams out may be asked to be removed. We have got to have order. So keep it together.

Representative Swalwell, you are recognized for 5 minutes.

Mr. SWALWELL. Thank you, Chairman.

Thank you, Ms. Jackson Lee, for your leadership on this. I am a proud cosponsor of H.R. 40.

And I have listened to some of my colleagues, Mr. Glover, tell you how much they like your movies. And I have to say: We didn't come here to talk about your movies. We came here to talk about your activism. I like your activism. I also like your movies. But I want to give you a chance because I haven't heard the other side other than tell you—that they like your movies, that they want to hear what you have to say on this important issue.

The Senate majority leader has said that no one living is responsible, and there is no way to compensate for this. And he is suggesting that there is no way to pay for it.

And I guess I would ask you, Mr. Glover, would you agree that if a Black college graduate is paying on average about \$10,000 more in student loan debt, we are paying for it? Would you agree that if the Black population is disproportionately incarcerated to any other population, that we are paying for it? And would you believe and agree that if the healthcare costs for a Black family are extraordinarily higher than for a White family, that we are actually already paying for it?

Mr. GLOVER. Statistics would suggest that. But I think there is such—a discussion that we seem to miss the point on and often as we talk about the different issues that we deal with in this country

and their intersectionalism, their interconnectedness, the issue, whether we are talking historically or we talk about how those things manifest themselves in our policy, what we do today in a sense.

And I think a part of what we don't do today is to evoke the kind of spirit that was so essential in this country's formation, in this country—in the moments—and when there were radical changes in this country.

We often talk about the right for organized labor to organize, the impact that they had on the African American community and to begin at some point in the 20th century, past the end of World War II, the benefits that were accrued at that particular point. And those people who struggled for that, whether it is Eugene Debs who struggled against—or whether it is Emma Goldman or whether it is W.E.B. DuBois and all the list of activists and men and women who brought about the kind of—who raise the bar with respect to, I think, our sense of revolutionary purpose in that sense.

And what I think, with the incredible wealth that this country has and the resources this country has and the capacity to do what it had once done, when I came into the world, there were opportunities that were different than previous generations. There were more schools that were built instead of prisons. There were more opportunities that were—for employment and new opportunities for employment.

Mr. SWALWELL. So we are going backwards.

Mr. GLOVER. There was more infrastructure development. And all those things played a role in our own ability, in our own—my own enhancement, personally, and collectively as well.

And so I think when we talk about them—when I went to college, certainly, I didn't have the debt responsibility that students have now. And certainly there are ways in which we can mediate that. Certainly, there have been arguments about whether college should be free, whether we should build more colleges, et cetera, et cetera, and provide different opportunities.

But we also have the transformation of a society that was an industrial society, industrial workforce, and now that depends directly on different forms of intelligence and certain technology. And that is a place where those who are most vulnerable across the board have not been—they have not been—how you say, they have not benefited from those new technologies.

Mr. SWALWELL. So—

Mr. GLOVER. And so what I am saying—so the picture that I am painting is a much larger picture, you know, within the dangers that we have, relative global warming and climate change and all the other issues here now. We can say right now the health condition of African Americans is pretty desperate in places. They live in toxic situations. We can talk about environmental racism that we haven't talked about, and maybe that would be a part of H.R.—the study that we talk about currently about H.R. 40.

So there are various things. So to begin to kind of like codify this in a way in which I find makes sense, I think the broader look at this study would also reveal some other things about what can happen and what the possibility is.

It seems as if we—if Dr. King said the imagination is the incredible vehicle for us, Albert Einstein said our imagination is more important than knowledge itself, then certainly the capacity that we have in terms of imagining a better future for—certainly for African American children and African Americans, the descendants of slaves, would we also would imagine a better opportunity for this country as well.

Mr. SWALWELL. Mr. Chairman, can I just say to your—I wanted to put this on the record.

I was not in the House when your resolution came up for a vote. But I would have voted to support it. I am sorry that it is something our government was responsible for. And Mitch McConnell may be right that no one alive is responsible for what happened then, but everyone alive is responsible to do something now.

Thank you.

Mr. COHEN. Thank you.

Mr. Reschenthaler.

Mr. RESCHENTHALER. Thank you, Mr. Chairman.

I would like to yield to my ranking member, my colleague from Louisiana.

Mr. JOHNSON. I thank my colleague.

I wanted to pitch it back to Mr. Hughes for a moment.

In spite of your relative young age, you have had some valuable experience publicly discussing sensitive issues of race and culture. And I just wonder what advice you would give to young people who are thinking about this. As Mr. Owens said, everybody ought to let that marinate a little bit.

As they begin to think about it, it has been suggested this morning that ignorance of our history is a big part of this, that we—everybody across the country—I mean, large numbers, we suffer from that. What is the response and what advice do you give to young people?

Mr. HUGHES. Well, I would urge people to observe the distinction between understanding history and responding to history. You can understand history, and it can still be the case that you have a range of possible responses in front of you. So addressing myself to Mr. Coates' comments before, if I understand them, the idea is, if we really understood our history, then we wouldn't keep Confederate statues up, for example. Therefore, the fact that they are still up implies that we don't really understand it in our bones.

And that, I think, highlights a distinction between how I think about this issue and how other people on the panel think about it. For example, there was a poll in The Washington Post last year which found that 30 percent of Black Virginians wanted the Confederate statues to stay up. Now, I don't think they wanted that because they hated themselves. I don't think they wanted that because they didn't understand their own history. Perhaps they were people who just didn't like seeing their communities change. There are many people like that. And I respect that, even though I myself would be fine to see those statues come down.

So the point here is that our response, whether or not you agree with it, is not itself evidence that we don't understand our history. And we can have two separate conversations. One is, what happened in this country? What was done to Black people? What harm

was incurred? And the second conversation is, what do we do about that? And that second conversation is—the answer to that second conversation is not self-evident from the answer to the first.

Thank you.

Mr. JOHNSON. I see Mr. Owens making notes over there. I know you have a lot to contribute on this subject. You do a lot with young people.

What would you add to that?

Mr. OWENS. I would, first of all, say we live in the United States of America, the greatest country in the history of mankind, a place that every person who comes here that applies themselves to the rules, to the standards in which we all can succeed, treat people right, be honest, dream big, dream above your obstacles, and get back up when you fall down, then they can make it.

History is there for us to find out and to gauge ourselves how far we have come. Fifty years ago, guys I was fighting on the football field as being one of four Black athletes are some of my best friends on Facebook today because we have all grown up. We have all understood that the message of our fathers was incorrect. And we are doing our very best to make sure we be the better people as we move forward.

This country, every generation works to find its better self. As long we don't reach back and define ourselves by the worst of ourselves. And that is what too many people are doing today. We have Americans in this country, and we will call them elitists, that live the American Dream, put their kids in the best colleges ever, drive every place you can think of, not having any issues, are going to have a great retirement, and then tell the rest of our race they can't do it. Why? Because the White man won't let them.

I personally think that is an insult to my parents, my grandparents. I did not grow up around White people until I was 16 years old. And I was so proud to be in that community I grew up in in Tallahassee, Florida, because we were kicking butt. We were leading our kids. They were teaching us how to be proud Americans.

Last point, I went to the University of Miami to study biology. By the time I was in my junior year, I decided I didn't want to do biology anymore. You know why I stayed with it? Because when I was leaving high school, there was a White guy who said I couldn't do it. And my parents taught me: If they say you can't, you do it. I lived in the library to prove that guy wrong. That is the way our race was, and that is the way our race needs to be again. What we can achieve, nothing about what has happened to us in the past. What strangers did to other strangers 200 years ago has nothing to do with us, because that is not in our DNA.

Thank you.

Mr. JOHNSON. Thank you.

Mr. Hughes, I have got 15 seconds. Let me give you one more question. You can answer it, I hope.

You wrote an article a while back entitled "Black American Culture and the Racial Wealth Gap." And you talked about specifically the city of Boston. And there was a disparity within the Black community. And you pointed out that Black Bostonians of American



ancestry had a median household wealth of \$8 in that but Caribbean ancestry had \$12,000 of wealth, talks to the disparity.

I just wondered if you would comment on the implications of that.

Mr. HUGHES. Well, this just goes back to the point I made before about disparities even within races being normal. So, if you go to—if you look at Census figures for White Americans and break it down, instead of talking about, quote/unquote, White people into White people of French ancestry, Russian ancestry, Swedish ancestry, you will find all kinds of disparities that, by definition, cannot be caused by some kind of systemic discrimination. Likewise, with, quote/unquote, Black Americans, it is a very diverse group. Something like 10 percent of Black people in this country are immigrants from places like Jamaica, Haiti, Nigeria, Ghana, and if you look at each individual group, you will find various disparities in wealth, in income, in crime rates, that, by definition, can't be explained by either race or racism.

So my point in citing that disparity is to upset the notion that if society were fair, evidence of that would be equal outcomes between all groups because there are so many differences historically in groups themselves geographically just in terms of median age, right? The average Black person in this country is 10 years younger than the average White person. So, when you are comparing Blacks to Whites, that is just one of the many ways in which you are not actually comparing apples to apples. So my point in citing that was just to upset that lazy assumption that we make about socioeconomic and other outcomes.

Mr. JOHNSON. Thank you.

I yield back.

Mr. COHEN. Thank you, sir.

I next recognize Ms. Scanlon for 5 minutes.

Ms. SCANLON. Thank you.

Before coming to Congress just last November, I was a public interest attorney, and so my work focused on access to justice, access to the ballot, and access to a good public education. And all three forms of access, as we have been discussing here today, are too often denied to people of color and poor people. And, unfortunately, as we have discussed, there is a disproportionate representation of people of color among poor people in this country.

So I wanted to ask some questions to talk about the relationship between the structural legacy of slavery and racism and a couple of the issues that are top of mind in my district. So one of them—and thank you for mentioning it, Mr. Glover—is environmental justice. The city of Chester is it my district. It is a majority African American population, and it is surrounded by heavily polluting industries.

Just Sunday night, CNN's "United Shades of America" featured the incinerators there. One in four children, African American children, in my district have asthma largely as a result of these environmental factors. So we have got this environmental justice issue we are dealing with. We have got schools issues. Pennsylvania has one of the most wildly inequitable public school funding systems. And if you go to the schools in Philadelphia and some of the other majority African American school districts, you see schools that are

over 100 years old. And, literally, visiting them, there is asbestos and lead paint dripping into the water fountains that the children have to use.

And then a third issue, which we have also touched on, is our policing and criminal justice issues where African American folks are locked up at, what, five times the rate of White people.

So how does the reparations conversation help us drive forward those issues? How can I link it for folks in my district to the issues they are facing daily?

And if I could ask Reverend Sutton and then Mr. Coates to maybe address that.

Rev. SUTTON. Thank you.

Those issues are linked. We have to make a distinction between personal responsibility and social responsibility. I go into the high schools in Baltimore as well. And we even sponsor programs to convince high schoolers: You can do this. You can succeed. You can make it. That is personal responsibility.

But when you go in the schools and you see the conditions, you see the quality of the teaching and all that, you know that they don't have the same shot as those who live 10 miles away or 5 miles away in their school systems.

And so one of the roles of the Congress is to make sure that there is a corporate responsibility that we all have for all of our citizens. We can all celebrate the tremendous strides that have been made in racial attitudes in this country. We are proud of the accomplishments of many African American individuals. I am proud of my accomplishments. I have worked very hard, and my brothers and sisters.

But for the millions of descendants of slaves who are trapped in this pernicious cycle of hopelessness, poverty, and rage due to their real experience of inequities, segregation, inferior schools, redlining and the like, the widespread assumption that everyone can pull themselves up by their bootstraps is a lie. It is a falsehood. And that is one of the things that this legislation wants to address.

Thank you.

Ms. SCANLON. Thank you.

Mr. Coates.

Mr. COATES. I think, frankly—and this is going to get repetitive—it comes back to the weight of history.

I heard it said just earlier, for instance, that the matters which face us today have nothing to do with strangers from 200 years ago. That is not the attitude we take toward George Washington. That is not the attitude we take toward Abraham Lincoln. We take that attitude to history that we are ashamed of. We don't take that attitude toward history that we are proud of.

Again, as I said earlier, answering another question, one the great weights of 250 years of enslavement in this country, which is longer than the 150 years of freedom that African Americans have enjoyed, is the codification of the idea of inferiority among Black people and not just in the culture but in the very laws themselves.

And even after those laws are repealed, as well they should, the idea still remains, and it is passed on. And so, for instance, it was just said by one of my fellow committee members that there was

a difference between the incomes of Caribbean Black immigrants and native Blacks. This is true.

It is also quite understandable. People who come to America to pursue opportunity generally tend to do better than the masses of a whole group that have been here. This is true of all immigrants. So this is not particularly surprising. But what happens when you look at that second generation? What happens when you look at that third generation of Caribbean Blacks? In fact, unlike all other groups, they quickly become African American Blacks in terms of their other statistics. Why is that? It is the weight of history. It is the implicit idea that is codified in our laws, in our criminal justice system, in the very places that we live to this very day. There is no way to get out of this. There is no way of escaping this without a direct confrontation, without H.R. 40, the very reason we are here.

Ms. SCANLON. Thank you very much.

Mr. COHEN. Thank you, Ms. Scanlon.

Before I go to my—I would like to recognize Mr. Wade Henderson who is here. He was the president of the leadership conference on human and civil rights and a great hero for many years. Thank you for your attendance and your years of work.

Mr. Hilary Shelton was here earlier, and they kind of were a team. He was the NAACP. And he left.

Ms. Dean, you are recognized for 5 minutes.

Ms. DEAN. Thank you, Mr. Chairman. And I thank you for having this hearing.

As troubling as this topic is, I can't tell you how glad that we are here today. I can't tell you how glad that this conversation is taking place. So I thank my colleague from Texas, Ms. Jackson Lee, for her extraordinary tenacious leadership on this legislation. We are here to acknowledge the terrible wrong in history, to recognize the continuation of those injuries, and that is one area I want to examine quickly, if I can, and to discover a remedy to these atrocities. Some measure of healing for this country.

So if I could take a look in the time that I am allotted two things. Mr. Coates, I wanted to ask you about the ongoing predatory practices. I happen to also be a member of the Financial Services Committee, and so we have examined some of the practices, for example, by Wells Fargo in predatory subprime lending in the African American community. Because too often we hear that this is a thing of the past. This is not something that has happened today. There is not an ongoing problem. You are dealing with something that is past. It is not past. The discrimination, the atrocities continue.

So if you could help me with the predatory practices. And then I wanted to try to lift it a little after that, because I loved what you said, Right Reverend, that it is important for our White brothers and sisters. We need this as much if not more for healing of our soul, healing of the soul of the country.

And, Ms. Browne, you talked about the liberating power of having this conversation and taking a look at all of this.

So, if we could talk about ongoing predatory practices and discrimination, and then maybe take it to the other side.

Mr. COATES. Sure. As I was saying earlier, it is like any other injury. There is the primary effect of the injury, and then there is secondary and tertiary effects of that injury.

African Americans have a history of segregation in this country. What that means is not merely living separately from Whites. It means living separately from Whites for the explicit purposes of denying certain benefits and certain funding and certain resources to Black people.

In the case of the housing history in the 20th century, what that meant was that, for long periods of time, while this country was making access—making available to middle class and working class White families low interest loans, the possibility of home ownership, which had not been available in the previous preceding decades, Black people were completely cut out of that process.

But still, there was that dream of buying a home. And so what that big gap left was for predatory lending to come in, illegitimate lending, that did not enjoy the imprimatur or the backing of the FHA to come into Black neighborhoods and make loans under conditions that were, to say the least, onerous. In some cases, Black folks didn't even actually own the homes. This practice of—sure.

Ms. DEAN. Contract lending.

Mr. COATES. Contract lending, yes.

Ms. DEAN. Could you give us a quick definition of that?

Mr. COATES. The basic idea of contract lending, because I don't have access to the normal routes of banking to buy a home. And so a contract lender comes in and pretends to actually sell me the home and gives me all the responsibilities of the homeowner, the upkeep, the upkeep, the maintenance, the taxes, et cetera, but actually holds onto the deed. It is a high-tech, what do you call it, rent-as-you-buy, buy-rent option.

Ms. DEAN. And the other practice that Wells Fargo participated in in a huge way in the early 2000s, 2005, as quoted by a former Wells Fargo loan officer, they went into Black communities, particularly through their churches, and pushed subprime lending mortgages on those folks who would have qualified likely for regular mortgages. And she said: We went right after them.

She is a former member of Wells Fargo. Wells Fargo mortgage had an emerging market unit and specifically targeted Black churches because it figured church leaders had a lot of influence, and we could convince congregants to take subprime loans.

That is recent. That is ongoing kinds of stuff. That is egregious. So anybody who says this is a thing of the past just isn't paying attention.

Mr. COATES. Congressman, just really quick. The reason why I just keep insisting on history is the very fact that that group of people was vulnerable in the first place is because of redlining and Jim Crow. They never would have been in that position if not for history.

Ms. DEAN. And I apologize.

But, Ms. Browne, if you don't mind, I am from Pennsylvania, so—suburban Philadelphia. If you could, talk about that notion of liberation as a result of looking at your own history. Can you tell us what that felt like and why we should argue that for us, and paint that picture?

Ms. BROWNE. Thank you so much.

There is so many layers to it. The part—what hasn't been mentioned today is the fact that race is a fiction. So slavery—the very concept of race and of one race being superior to another was invented to justify slavery. And it was also deployed in order to have White working class, like indentured servants back in the Virginia in the colonial era, identify with this notion of whiteness and with wealthier Whites rather than identify with enslaved Africans and native people with whom they had common cause. And so there is a lot of layers to this history that I think for a lot of the White Americans who feel like this is just an accusation and this is just yet another case of calling their people historically racist or calling them racist today.

In my experience, the African American community is much more sophisticated about understanding that some of these dynamics, for example, with the GI Bill and whatnot, it is mundane complicity of White folks who are benefiting from a system and looking the other way. They are not necessarily getting up in the morning and saying, "I want to be racist."

And there is an understanding of that amongst those of us who are in the field doing this work. So they are just, again, coming back to the learning of the history, it is liberatory to get beyond even the very concept of race.

Ms. DEAN. Thank you.

Thank you, Mr. Chairman. I know I am over.

Mr. COHEN. Thank you, Ms. Dean.

Sylvia, you are on.

Ms. GARCIA. Thank you, Mr. Chairman. And, first, I want to thank the chairman for bringing this forward. And, of course, to my colleague from Houston, that we have worked for many years on so many social justice issues at home. It is just great to stand with you again in this time here on such a very important national topic. I am a cosponsor, and I pledge to you that I will work shoulder and shoulder with you to make sure we get this done.

And to all the people in the audience, thank you for being here. I know it has been a long hearing. But I think it is going to be—thank you for being here. And I know you have been waiting, but I think the waiting will be worth it when we get to the end of the tunnel. So thank you all for being here.

And, Bishop, I wanted to start with you because it really did warm my heart that you have some scripture notes here and that you mentioned Jesus.

You know, I have a very deeply firm held religious belief that we really are all created equal and that we really are all children of God. And I want you to just pretend that instead of speaking to us right now that you are speaking to the average American, who may not have read everything that we have, who may not have been as attuned to this hearing, but is kind of wondering what this is really all about. Because as much as you say and others have said, that this isn't about a check. The bottom line is that when some people start talking about reparations, they think that it is just about that.

So my question to you is, what would Jesus do about reparations?

Rev. SUTTON. Well, when it comes to those questions, I like to rely on people. I am in sales, not management. So I am not going to—

Ms. GARCIA. Very nice. It is a good start.

Rev. SUTTON. But the—I want to be clear: It is not just about a check.

Ms. GARCIA. Correct.

Rev. SUTTON. When I think of—I think about some African American women who are languishing in nursing homes with no money, no wealth. No, let's cut a check. I think about some others where a check would be very good. So I just wanted to be clear about this.

But it is not essentially about money. It is about being good. There has been talk here about our Nation being a great Nation or to make it great again or the greatest Nation of all. I am more concerned about this Nation being good. Let's be good. Let's do a good thing.

And if we can be good enough, then let history and let people around the world say: The United States is great, not because you can make a lot of money there, not because you can enrich yourself, not because of the size of your military or your armaments. They are great because they are good. And so I am here today to witness to being good about this, that there is some unfinished business in this Nation.

Lastly, about the souls. In 1903, W.E.B. DuBois wrote the famous book, "The Souls of Black Folk." I would like to see another book written, "The Souls of White Folk." The Souls of White Folk in this Nation right now. What does it do to your soul to know that some of the benefit you get from your White skin and your background is not accrued to everybody? What does that do to your soul? And so this is a soulful act I think that we are talking about today.

Ms. GARCIA. Thank you.

Rev. SUTTON. And it is really going to take all of us.

I said earlier that we have forgiven you. And that what I mean is we are here. We are in America. We want America to be good and great. Desmond Tutu, Archbishop Desmond Tutu of Africa said once: Without forgiveness, there is no future. We have to forgive one another, but that doesn't mean we stop there. We have work to do. And this let's for reconciliation. I wonder if my sister here—

Ms. GARCIA. Well, actually, I had a question for Mr. Coates.

But you had to go really quickly. I had one question for Mr. Coates. If you wanted to add something really quick, I am running out of time.

Ms. MALVEAUX. I am the economist on the panel, so it is a little bit frustrating that economic questions are being directed to non-economists who I think I have some things that I would like to be able to say about some of this. But thank you, my brother, for giving me—for passing the mike. I really do appreciate it.

The questions about predatory lending really need—that your sister Congresswoman raised really need to be dealt with, because it is not just—that is something that is happening—

Ms. GARCIA. If you are going to talk about predatory lending, could you also add—because what I was going to ask him, you could probably answer also, this whole history of the exclusion of Blacks from some of the early programs like Social Security and the GI Bill and others because it all is about economic security.

So, if you could blend your answer, that would be great, because then I would use my time to get both questions in.

Ms. MALVEAUX. Sure. I mean, we can go back and look at the minimum wage, which excluded farm workers in the South which were predominantly Black people, excluded domestic workers who were Black women. And so these folks were excluded not only from the minimum wage but also from the Social Security system.

And so your comment about Black women in nursing homes is very pointed given all of that. I mean, we have to look at this—the hearts and minds questions—I am an economist, so I leave that to the reverend. But what I want—but my thing is: Let's look at the economic underpinnings of the inequality that exists in this country, the wealth gap that exists in this country, and the differences that it makes.

Sister Congresswoman, when you talked about predatory lending, a third of the people who had predatory loans qualified for regular loans, a third of them. However, they did not get them because of the way that slavery, racism, basically segregated people. So, while it is lovely to sing Kumbaya, which I don't do very often, I think it is even better to talk about what is going on economically and the differences that exists because of the wealth gap.

When a Black woman, man is arrested, absent wealth, they lay up in the jail for I don't know how many days because they don't have the home, the mortgage, to get the bail. And cash bail is discriminatory. And so we could just go down the list and talk about the very many ways that racism affects equality of the folks' lives.

And with all due respect to these Kumbaya brothers over here who—you know, I am proud of my family too. I mean, we good Black people too. I have a Ph.D. I have two MBAs in my family. But I am not going to give you my family history.

But—you know, but it is irrelevant. It is irrelevant when you are dealing with structure. I want you all Congress people to deal with issues of economic structure. Have an economic structure that has generated an inequality that makes it difficult for people to live their lives.

When a ZIP Code determines what kind of school that you go to, when ZIP Code determines what kind of food you can eat, these are the vestiges of enslavement that a lot of people don't want to deal with. Forgive me—you know, I am kind of over the top. But I usually am. Those in the audience who know me know, you know, tick tick boom.

But the fact is that I am gratified, Sheila, Congresswoman Jackson Lee, for these hearings. But I am also frustrated for the tone that some of this has taken because it takes us away from the economic underpinnings what needs to go on here.

Ms. GARCIA. Thank you.

Thank you, Mr. Chairman. I yield back.

Mr. COHEN. Thank you.

Mr. Jordan is recognized for 5 minutes.

Mr. JORDAN. Thank you, Mr. Chairman.

I yield to the gentleman from Louisiana.

Mr. JOHNSON. I thank my colleague.

This has really been a thoughtful discussion. I know we are nearing the end of it. We have more to go. Thanks, everybody, for their patience.

I just want to touch on something that Reverend Sutton said a moment ago about America being good. It is good. It is the greatest Nation in the history of the world. There is a reason for that.

G.K. Chesterton was a famous British philosopher. He famously said America is the only Nation in the world that is founded upon a creed. And he said it is listed with almost theological lucidity in the Declaration of Independence. And what is the creed? We are the first people in the history of the world that openly acknowledged, boldly declared that we are created in the image of God. And, therefore, every single person has inalienable human rights.

There is a self-evident truth, the Founder said. We are trying to live up to that promise. As you all know, Martin Luther King, Jr., famously said that was a promissory note to future generations, and we are trying to get there.

The honest question that we are trying to get to, is the payment, okay, which would be part of this, by many people's estimation, is that part of that attaining the ultimate goal? And it is a thoughtful question. It is a serious one. And I don't think that you should disparage the motives of anybody who is asking these piercing questions. And we are going to, and we are. You are all part of the dialogue. And I am grateful that it has largely been a civil discussion today, and I really appreciate your contributions.

Let me go back to Mr. Owens. In a 2018 interview, you noted that—you said, quote: It was the Black community that led our country in terms of the growth of the middle class. Between 40 and 50 percent of Black Americans became part of the middle class. The Black community also led the country in terms of the commitment of men to marriage at over 70 percent, unquote.

I wonder if you could elaborate a little bit on what you attribute that to.

Mr. OWENS. Head, heart, home, hands. We were a race that believed in God. Very committed to the Christian faith. Because we did, our men believed in being the men of their household to provide for their kids and their wife, and they took that commitment very seriously. They took pride in being producers.

The idea of me being a beggar was not an option. When I failed after coming out of the NFL—7 years after coming out of the NFL, totally humbling. But for a brief few months I was willing to be a chimney sweep. I was willing to be a security guard. That was what we were taught. Do whatever it takes to provide for your family. It doesn't matter. Be proud of it.

I am proud of it now. I would never want to go there again. But at the end of day, that is what we were taught. We have now—we are turning out my race into one that is feeling that they are entitled to somebody else's property. We are now asking for something, reparation, that will get to funding, for something we never experienced ourselves in our lives, are not owed, because we have a chance, every single day, to make a choice. I can choose today to



be more successful or less. And it has nothing to do with my ancestors or my great-great-grandfather Silas other than the fact I am so proud that he showed me, through his example, how to overcome obstacles.

So we need to get back to the pride that we had during the '40s, '50s, and the '60s as a race when we are competing against the White race, when we were segregated, when our money stayed within our community and our leadership stayed in our community. We weren't trying to get after somebody else's race to give them our business.

We need to recognize that within our kids is our future. I personally believe this. Right now, we have over 60,000 of our youth that is incarcerated every single year. These kids, most of them, 85 percent, don't have fathers. We are able to get those kids back, give them the hope that this country give them a great opportunity that they can go out and build businesses or move their future on, they will bring us back to the abyss. And I believe those kids, the ones that we give hope again, will bring our country back from the the abyss. We need to give the right message first.

Mr. JOHNSON. Very well said.

Mr. Hughes, I know there is lot that has been said here. And I know you have thoughts on a lot of these topics. I would yield back to you for 55 seconds here, pitch it to you.

What would you like to add to the conversation?

Mr. HUGHES. Oh, yeah, a lot has been said. I am not sure there is any no one specific thing at this moment I want to respond to.

Mr. JOHNSON. That is great. I respect that.

Listen, we are probably out of time for—or out of questions on this side. But, again, on behalf of everybody here, I think I speak for all my colleagues, we really appreciate your interest, your involvement, your patience today. It has been a long hearing. But I think we have had a thoughtful discussion. I think it is important for the country for us to do this, so I am grateful, and I yield back.

Mr. COHEN. Thank you, Mr. Johnson.

Ms. Escobar of Texas is next, 5 minutes.

Ms. ESCOBAR. Thank you so much, Mr. Chairman. And I want to just say how proud I am and fortunate I feel to be in the room with all of you, to be able to have this very important discussion, and to participate in this historic hearing. I also just want to quickly acknowledge and thank my sister Congresswoman, the Congresswoman, the gentlelady from Texas.

Thank you, Sheila, for your incredible work and your passion and the dignity and strength that you bring to this discussion.

And as my colleague from California Ms. Bass mentioned, this is a difficult conversation to have but one that is so long overdue.

Dr. Malveaux, I so appreciate your economic perspective, and I want to ask you a couple of questions rooted in that economic background that you have so that you can help the country understand the significance of why we have to have this conversation.

So, first, I would like to ask you to respond to critics of this bill who claim that the U.S. has already paid reparations to African Americans through affirmative action.

How would you respond to that?

Ms. MALVEAUX. Thank you so much, Sister Congresswoman, for the question. Let me say that affirmative action—the primary beneficiaries of affirmative action actually were White women. And there is a significant research that shows that. Because White women were better poised to take advantage of the benefits that affirmative action. You had disadvantage and discrimination. The African-American community had disadvantage plus discrimination. White women simply had discrimination. So, when you go back and look at the data, you will not find that African Americans significantly benefited from affirmative action. It was a lot of talk and not a lot of action. So, when people talk about we have already paid reparations—I have heard people talk about the fact that White people died in the Civil War fighting on the side of the North. Well, the North was also a beneficiary of enslavement, quite frankly. My sister here who talked about her family has lifted that up. So, no, the reparations have not been paid. And the fact is that we are not as again—some folks may want checks. But what we are really talking about is closing that wealth gap and making people whole.

Ms. ESCOBAR. Thank you. And to that point about the wealth gap, you have remarked and pointed out that the income gap was actually shrinking until government played a role. The income gap for formerly enslaved individuals.

Ms. MALVEAUX. The wealth gap. The wealth gap was shrinking until Jim Crow laws and profligate racism intruded in the ways that people were able to live their lives. The Tommy Moss story that I told a little bit of, the guy who opened the grocery store, Ida B. Wells' goddaughter's dad, opened a grocery store. He dared, he dared to compete with White people. And because he dared to compete with White people, he basically lost his life.

Tulsa, Oklahoma, when the Governor of the Oklahoma actually appointed a commission to find out why the Wall Street massacre occurred, one of the newspapers came up with this conclusion: Too many n-words have too much money.

That was the conclusion of an official government commission.

And Black Wall Street was amazing. Dr. Olivia Hooker, who passed just last November, she was the oldest living survivor, and she was a friend. She said: We didn't have to leave the Black community for anything, except for banking. We had our own grocery stores, department stores. Black doctors built a library when White folks wouldn't build a library for Black people.

That kind of economic thriving became a source of envy. Wilmington, North Carolina, brother man over here wants to talk ugly about Democrats. People change their ideologies. So the Democrats were the Devil once upon a time. There was a group called the Red Shirts which were the Klan. This had he were Democrats. However, the Republicans took that over. They became the Devil and—I am just saying—forgive me, Brother Chairman, I know you said I am not supposed to say that. Forgive me. But in any case, people do change ideology so all this throwing at Democrats, Democrats and Republicans have been racist. But in Wilmington, North Carolina, Republicans and Black people came together to form a fusion government. And White folks were so frightened that they took all the prominent Black men in that town, arrested them. The next

morning gave them tickets to leave town. They had to leave their property, their livelihood, their families, everything. This is why we need reparations. White Democrats were so threatened by the notion of the fusion government that they basically burned people out. They documented 60 deaths, but there is a film—when I was talking and you told me I couldn't talk—there is a film called "Wilmington on Fire." I want everybody to watch this film, "Wilmington on Fire." It really does talk about what happened in Wilmington in 1898 when they just basically burned Black folks out. Twenty five percent of the Black people in Wilmington left. Nearly one-third of the Black businesses in Wilmington went out of business. It was really about economic envy. So, absent this economic envy and fear, Black folks, we didn't get the 40 acres and a mule, but we were still trying to do it. And then folks came in and said: Wait a minute. If we let them do their thing, where is our cheap labor going to come from?

So that is what happened. Thank you for the question.

Ms. ESCOBAR. Thank you so much, Chairman. I am out of time.

Mr. COHEN. Thank you.

Last, but far from least, is the sponsor of H.R. 40, The Honorable Sheila Jackson Lee for her 5 minutes-plus.

Ms. JACKSON LEE. It is appropriate for me, Mr. Chairman, to thank you so very much and to dispel this audience from any suggestion and witnesses that we are here on a temporary pass, doing temporary work, that is going to be fleeting and never to be seen again.

I want to thank Chairman Cohen, who comes from the heart of Memphis in Tennessee, who has walked in the life of a dual society.

And I want to thank Chairman Nadler, who has indicated, as I did, supported H.R. 40 and the leadership of John Conyers.

I want to thank all my colleagues on this panel for their diligence and outstanding questions. They are going to be in the forefront of educating, answering the questions, being a team, and I look forward to their work on this very powerful committee, the Judiciary Committee. What better place to have this hearing. And to those who are again trying to understand our process. You have to have a hearing, then there is something called a markup, then there is a vote in committee, and then there is the opportunity to go to the floor of the House of Representatives on to the Senate, which will be the other body as we call it, and the challenge that I will accept, and I hope that you will accept, and then the signature by a President of the United States of America.

Let this day, June 19, 2019, be the marker for the commitment for each and every one of you who have come to support to say: On my watch, we will watch this bill pass and be signed by the President of the United States of America.

I want to acknowledge Pastor Alan Patterson, who is from my hometown—and I know he wouldn't mind me saying—the inheritor of a great historic church in the historic Fifth Ward, Texas, that was a settling place for freed slaves, Mount Corinth Baptist Church. I am delighted that he is here, and I thank him. All the others I have thanked.

Let me thank the witnesses. Mr. Chairman is very kind, but I will be diligent. Let me thank the witnesses who are here. Each and every one of them. Let me thank Mr. Coates, Mr. Glover, Ms. Browne, Mr. Hughes, Mr. Owens, the Right Reverend Eugene Taylor Sutton, and, as well, Dr. Julianne Malveaux, Professor Eric Miller.

Let me get to my questions at this point. During the Red Summer of 1919, violence against African American communities erupted. Two years later, in the Tulsa race riots, 300 African Americans were killed and the entire Black community of Greenwood in Tulsa was destroyed.

Another devastating racist attack took place in Rosewood, Florida, in 1923, Black-owned homes and businesses were systematically burned, at least eight people were killed. During—and despite African American service in World War II.

I commend Mr. Coleman and I think Mr.—Mr. Owens and Mr. Hughes, excuse me: Read the bill.

What the bill says is that this is a study to consider a national apology, which has been done, and a proposal for reparations for the institution of slavery. The institution of slavery has never gone away. It exists. It is subsequent to du jour and de facto, that is, that it is subject to the laws and to the current sphere of what has generated today. Racial and economic discrimination against African Americans and the impact of these forces on living African Americans that are to make recommendations to the Congress on appropriate remedies, and for other purposes. Why does the Congress have to do it? Because a Congress is the law-making body of the Federal Government, and it was the States and Federal Government that institutionalized laws that made slavery an act of the state. And it is not the courts, they will interpret, but we have to correct our error. That is why, in that historic moment, Republicans and I guess some Democrats came together in the Congress and supported the 13th Amendment, which then Democrats and Republicans or whatever they were called at that time throughout the States, then the States voted to accept that particular amendment. That is why the Congress must do its job.

I welcome the disparate opinions, but I would argue to the gentleman from Columbia that you are I think, without the historical perspective and the pain, of being opposed at your very young age to affirmative action and reparations. So I would welcome a continuing debate. My door is open for you. I welcome you being here as a witness. But I think it is important to take note of this: One, my husband—excuse me, love him too—not my husband, love him too. My father was Ezra Clyde Jackson. He was the baby boy of a widowed mother with three brothers that went to World War II. A young man that graduated from high school for arts, New York City. He, out of high school, went to the cartoon industry in New York, it was thriving, what an amazing thing for a young Black boy. When the White men came back from World War II, my husband—my father was summarily fired for them to take his place. I was not born then, but I can tell you the life of that talented Black man was never the same until some 40 years later, when he was able to—talent never lost—able to be called back into that industry. Racism, it wasn't slavery; it wasn't 1892. It was in these

prosperous '40s that you were talking about that my father, because of the color of his skin, his brilliant talent, the cartoonist artist that he was, was summarily fired.

And so the question I have, Dr. Malveaux, while the White middle class were being buoyed by the New Deal, period of my father's life, African Americans were consistently excluded from its benefits. For example, the 1935 Social Security Act carved out jobs largely filled by African American workers, such as farm and domestic labor, from its old age and employment insurance. Federal housing programs also discriminated against African Americans by redlining Black neighborhoods to preclude them from receiving Federal Housing Administration, FHA. The GI Bill, which dedicated billions of dollars toward expanding opportunity for soldiers returning from war, also contributed to the widening gap between White and Black Americans. Southern congressional leaders made certain that the programs were controlled by local White official, resulting in Black veterans being denied housing and business loans.

Dr. Malveaux, I want to get to your seatmate there, Mr. Miller. So I am going to you first, and I also want to get to Mr. Coates on these issues. And I thank all the other witnesses. Could you comment on this impact, on this continuing impact when we didn't benefit from that?

Ms. MALVEAUX. Thank you, again, Congresswoman, both for the hearing and for the question. The continuing impact is it shows up in the wealth gap. In addition to the entirety of the way that we redline Black communities through the Federal Housing Administration, redline communities so that people could not get housing loans, even when they qualified for them. This was government policy. This is why Congress must do this. Congress did the Devil, and now Congress has to do the right thing. It is quite simple.

I am so happy that you mentioned the GI Bill for a couple of reasons. Number one, as you said, the State authorities decided who got benefits. In the State of Mississippi, fewer than 1,000, the number is 600 or 700, but I will just round up, fewer than 1,000 Black men were able to go to college on the GI Bill in Mississippi because when they went to get their GI benefits, the GI boys said: Well, you could go to barber school, or you could go to trade school. But these were brothers who were qualified to go to college, should have had that opportunity, would have had generational differences in the way they lived had they done that. So Congress has indifferently, essentially sidelined Black people from the opportunities that they created for White people. It is plain and simple. Sideline us from those opportunities, and that is why it is time now to talk about how to fix that.

My brother who has done the work on Tulsa can talk so much more about that. But let us simply say the commission that is created must go through line by line and look at all this—and detail it. I don't like to think—like I said, I am not Kumbaya.

Ms. JACKSON LEE. Thank you.

Ms. MALVEAUX. I don't like to think White people are evil. I think White people are ignorant. I think White people do not know what the history is. And I commend you all to look at the history

and the work that you have done in the past and then challenge you to do the right thing.

Ms. JACKSON LEE. Thank you.

Mr. Coates, may I bring you to the 21st century and recent article in The New York Times that basically says—

Mr. COHEN. We have a call for votes; make it real quick.

Ms. JACKSON LEE. Thank you. This is Kansas City: Downtown is booming. But in the shadows of the city's thriving business and entertainment district are languishing East Side neighborhoods pocked with boarded-up homes and overgrown, trash-strewn lots. The shiny cafes and storefronts are almost nonexistent there, and residents like LaTonya Bowman feel forgotten. "I love downtown, and I would love to see it grow too, but you have got to be real," says Ms. Bowman, who lives in the predominantly Black East Side. "It is like neglect. We get the leftovers."

Can you just bring that all together for us in what you have ascertained about the commission, racism, and where we are today.

Mr. COATES. Sure. I think the consistent point from the comments that you just read—the article you just read from—stretching all the way back to the period of enslavement in this country is the idea of theft. Enslavement is threat. For 250 years, Black people had the fruits of their labor stolen from them. We don't often think about Jim Crow and the era of segregation as theft, but it is theft too. If I agree to pay taxes, if I agree to fealty to a government, and you give me a different level of resources out of that tax pool, if you are giving me a different level of protection, you have effectively stolen from me. If you deny my ability to vote and to participate in the political process, to decide how those resources are used, you have effectively stolen from me. So it makes a kind of sense that after a period that begins in 1619 of theft, ending conservatively in 1968, I think I will get an argument on that, but conservatively in 1968 that if you steal from a group of people over that long period of a period of time, you will have the very wealth gap that Dr. Malveaux—results from. I think it is very, very important to bring that into the conversation because this wasn't a passive discrimination. This was appropriating resources from one group and giving them to the other through the auspices of the state.

Ms. JACKSON LEE. Thank you.

Thank you, Mr. Chairman. I am very grateful to you to yield back. And I feel the power in this room.

And I ask my colleague Mr. Johnson: Let us work together. Let's get this done. It is long overdue. It is deserving, and it is the right thing to do.

Mr. Chairman, I yield back.

Mr. COHEN. Thank you, Ms. Lee. And of course, I want to thank all of our witnesses. This concludes our hearing. I want to thank our witnesses. This has been a great panel. This is what, magnified times 10, 20, 50, of a study would be like because this panel would be heard and heard and heard, and people would get the story of what has happened in America and different perspectives on how to deal with it.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses or additional material for the record.

I want to thank my ranking member and all of my members. Our attendance was excellent. If anybody sees Jon Stewart, tell him everybody was here and very attentive.

And, with that, the hearing is adjourned.

[Whereupon, at 1:24 p.m., the subcommittee was adjourned.]

## **APPENDIX**

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Testimony concerning HR40, The Commission to Study and Develop Reparations Proposals for African-Americans Act (116<sup>th</sup> Congress 2019-2020)

William Darity Jr., Samuel DuBois Cook Professor of Public Policy, African and African American Studies, and Economics and Director of the Samuel DuBois Cook Center on Social Equity, Duke University

June 19, 2019

My name is William Darity Jr. I currently serve as the Samuel DuBois Cook Professor of Public Policy, African and African American Studies, and Economics and the Director of the Samuel DuBois Cook Center on Social Equity at Duke University. I am honored to have been asked (by Mr. Keenan Keller) to address the 116th Congress on an issue I have been studying for more than thirty years: the matter of reparations for black American descendants of persons enslaved in the United States of America. The testimony I will provide today is the culmination of extensive, rigorous, and evidence-based research I have undertaken on the subject of restitution for native black Americans.

The time has come for the United States, finally, to lay to rest the issue of what has been called, variously, the Slave Problem, the Colored Problem, the Negro Problem, the Black Problem, and the African American Problem. The country can ill afford to remain stranded in the mire of injustice, perpetually refusing to resolve the fundamental, historic national dilemma facing all Americans. For too long the nation has refused to take steps to solve an unethical predicament of its own making—the problem of the unequal status of black and white Americans. This Congressional hearing on HR40, the bill former Congressman John Conyers worked on so tirelessly for three decades, not only should credit his efforts but should lead directly to completion of the goal he and others have worked to achieve: charting a path toward a just and equitable America.

A policy of reparations is a set of compensatory policies for grievous injustice. The three goals of a reparations plan should be 1. acknowledgement, 2. redress, and 3. closure.

1. Acknowledgement is the admission of responsibility for the atrocity (or atrocities) by the culpable party, incorporating an apology. The admission must also be accompanied by a guarantee to make restitution in as rapid a fashion as possible.
2. Redress is the provision of restitution, typically in the form of monetary compensation—as it has been in the cases of Germany’s reparations program on behalf of victims of the Holocaust and the United States’ reparations program on behalf of Japanese Americans unjustly incarcerated during World War II.
3. Closure means the agreement by the victimized community and the culpable party that the debt has been paid. The victims would make no further group-specific claims on the culpable party, unless new atrocities take place.

A plan for black reparations in the United States must fulfill specific principles and those principles must inform, organically, the deliberations of the Commission to Study and Develop Reparations for African-Americans. In addition to the three central aims of a reparations program described above—acknowledgement, redress, and closure—there are six principles that must be met: 1. With respect to black reparations, the United States government is the culpable party that must meet the obligation of awarding restitution to those eligible for

reparations. 2. The United States government is culpable for not providing compensation, over the course of 150 years since the end of the Civil War, compensation for enslaved blacks, their heirs, and their descendants. 3 The United States government also is culpable for maintaining the legal and authority framework that sanctioned slavery, legal segregation in the United States, and continues to permit ongoing racist practices. 4. Eligibility for reparations for African-Americans must apply specifically to those black Americans who are descendants of persons enslaved in the United States. 5. Black reparations must be designed, at minimum, to eliminate the racial wealth gap. 6. Black reparations also must include a systematic plan to maintain historical memory of the conditions that motivated the inauguration of the program of restitution.

With respect to the claim for black reparations, the United States stands as the culpable party. The current text of HR40 makes note of “[t]he role which the Federal and State governments of the United States supported the institution of slavery in constitutional and statutory provisions,” “the Federal and State laws that discriminated against formerly enslaved Africans and their descendants who were deemed United States citizens from 1868 to the present,” and “other forms of discrimination in the public and private sectors against freed African slaves and their descendants who were deemed United States citizens from 1868 to the present, including redlining, educational funding discrepancies, and predatory financial practices.” Indeed, to the extent that federal laws and their enforcement take precedence over both state government and private sector actions, the failure of the federal government to prohibit discriminatory actions by non-federal entities reinforces the national responsibility for making restitution.

Moreover, the federal government abandoned the opportunity to provide immediate compensation to those persons formerly enslaved upon emancipation. The freedmen had been promised allotments of at least 40 acres of land. There is some ambiguity whether this was intended to be 40 acres per family of four or per individual, but even if we take the more conservative condition—40 acres per family—the allocation would have amounted to 40 million acres for the four million persons who were newly emancipated. This allocation never took place, and in the subsequent 150 years there has been no act of restitution for the formerly enslaved or their descendants. This is not because the descendants of slavery have been silent on this score. It is because their efforts to this point, actively, have been opposed and blocked. The Commission to be established under HR40 represents an opportunity, finally, to develop a reparations program that will address the nation’s unmet obligations.

The case for black reparations must be anchored on three phases of grievous injustice inflicted upon enslaved blacks and their descendants. First is the atrocity of slavery itself. Second are the atrocities exercised during the nearly century-long period of legal segregation in the United States (the “Jim Crow” era). Third are the legacy effects of slavery and Jim Crow, compounded by ongoing racism manifest in persistent health disparities, labor market discrimination, mass incarceration, police executions of unarmed blacks (*de facto* lynchings), black voter suppression, and the general deprivation of equal well-being with all Americans. Therefore, it is a misnomer to refer to “slavery reparations,” since black reparations must encompass the harms imposed throughout American history to the present moment—both slavery and post-slavery, both Jim Crow and post-Jim Crow—on black descendants of American slavery. It is precisely that unique community that should be the recipients of reparations: black American descendants of persons enslaved in the United States.

In a 2003 article written with Dania Frank Francis, and, more recently, in work written with Kirsten Mullen, we have proposed two criteria for eligibility for black reparations. First, an individual must demonstrate that they have at least one ancestor who was enslaved in the United States. Second, an individual must demonstrate that for at least ten years prior to the onset of the reparations program or the formation of the study commission, whichever comes first, they self-identified as black, Negro, or African-American. The first criterion will require genealogical documentation—but absolutely no phenotype, ideology, or DNA tests. The second criterion will require presentation of a suitable state or federal legal document that the person declared themselves to be black.

These criteria rule out blacks who are post-slavery immigrants to the United States, whose own ancestors are likely to have been subjected to enslavement and colonialism elsewhere. Indeed, they may have substantial claims for

reparations themselves, but not from the United States government. For example, Nigerians (and Nigerian Americans) have, in my estimation, a claim for reparations against the United Kingdom; similarly, Haitians (and Haitian Americans) have a comparable claim for reparations against France. However, legitimate claimants for black reparations from the United States government must be those black Americans whose ancestors were enslaved here after having been forced immigrants, rather than voluntary immigrants. This is a unique segment of the nation's black population; it is the segment that will be eligible for black reparations in America.

In our forthcoming book, *From Here to Equality: Reparations for Black Americans in the 20<sup>th</sup> Century*, Kirsten Mullen and I have identified the immense racial wealth gap as the prime indicator of the cumulative effects of the full trajectory of harms thrust upon black Americans. Wealth, the difference between the value of what one owns and what one owes, must not to be confused with income. Wealth is more important than income, at least, insofar as higher levels of wealth are protective against unanticipated losses in income due to unemployment or financial emergencies. Wealth is insurance against economic anxiety and economic disruption for individuals and families. Wealth expands opportunity and possibility for those with larger amounts.

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. A core objective of the reparations program must be to move the black American share to at least 13 to 14 percent. Reparations designated specifically for black American descendants of slavery must be enacted and implemented to achieve that aim, moving black wealth, roughly, from less than \$3 trillion to \$13 to 14 trillion.

While closure is one of the imperatives of any reparations program, arriving at closure does not mean forgetting the record of atrocities. Thus, a key dimension of a black reparations program must be the development and application of a rigorous curriculum, fully integrated into public school instruction at all grade levels, telling the story of America's racial history, in all of its complexity, accurately.

The foregoing six principles should be guidelines that structure the charge of the Commission to Study and Develop Reparations Proposals for African-Americans. In addition, there are several revisions to HR40 that I view as essential to yield the strongest legislation to launch the Commission. The window that is relevant to the American black claim for reparations is 1776 to the present, not 1619 to the present, as the bill currently reads. Since the eventual claim for legislative redress must be made on the United States government, the beginning date must be associated with the founding of the Republic, not the landing of enslaved persons at Jamestown. Furthermore, the array of atrocities that occurred between 1776 and the present are of sufficient magnitude that the case is not weakened by discounting the colonial period.

In its current form, the longevity of the Commission is not specified in HR40. I recommend the Commission completes its report, inclusive of a detailed prescription for legislation to enact a reparations program for black Americans, within 18 months of its impaneling. The Congressional Commission on Wartime Relocation and Internment of Civilians opened with 20 days of public hearings that began on July 31, 1980 and the Commission's report, *Personal Justice Denied*, was published on February 24, 1983. President Johnson's National Advisory Commission on Civil Disorders (known colloquially as the Kerner Commission) issued its report with recommendations a mere seven months after impaneling.

I also recommend, like the Commission on Wartime Relocation and Internment of Civilians, the reparations proposals Commission should be appointed *exclusively by the Congress*. The Commission appointees should be experts in American history, Constitutional law, economics (including stratification economics), political science, and sociology. These appointees must have expert knowledge on the history of slavery and Jim Crow, employment discrimination, wealth inequality, health disparities, unequal educational opportunity, criminal justice and mass incarceration, media, political participation and exclusion, and housing inequities. The Commission also should include appointees with detailed knowledge about the design and administration of prior reparations programs as guidelines for structuring a comprehensive reparations program for native black Americans.

In addition, the Commissioners should not receive payment to minimize the prospect that personal aggrandizement will influence the proceedings. However, there should be a paid professional staff, and the Commissioner appointees' reasonable expenses should be met. In essence, they (nor any organization to which they belong) should not receive a salary, honorarium, or the equivalent for performing this critical national service.

There are also some sections of HR40 that merit revision for accuracy. Unlike the statement in Section 2 (a) many more than 4 million persons were enslaved in the United States between 1619 and 1865, since not all persons enslaved over that interval still were living at the end of the Civil War. It is valid to say there were about 4 million persons emancipated when the Civil War came to a close, but they were not the total number of persons subjected to American slavery.

Section 3.b. (2) indicts the United States government for blocking repatriation of formerly enslaved blacks to the African continent. Arguably, the exact opposite is true, particularly given the United States' role in the creation of Liberia. Even Abraham Lincoln advocated black repatriation until the later years of the Civil War. Alleged obstacles to repatriation are not a justification for black reparations. The core of the claim for reparations is a declaration for the establishment of full citizenship rights and compensation for the sustained denial of liberty for black descendants of American slavery. Of course, it will be their prerogative if some black recipients of reparations choose to use their funds to migrate to their preferred country in Africa, or elsewhere.

In conclusion, in addition to the Commission's report must detail the long and cumulative trajectory of atrocities visited upon black American descendants of persons enslaved in the United States and their ancestors, and it must provide a well-designed comprehensive program for reparations that will address the following specifics: criteria for eligibility for reparations and assistance for potential claimants to establish their eligibility, criteria for establishing the size of the reparations fund, details on how the reparations fund will be disbursed (and toward what ends), details on how the reparations program will be administered and *monitored*, and benchmarks for gauging the long term success of the program and administrative modification if needed. The eventual proposal also should include the hiring of a full staff of accountants and attorneys to track and service each individual claim for compensation. The details of all of these specifics must be framed by the six principles presented at the start of my testimony.

I thank you for giving me the opportunity to clarify the motivation and purpose of the Commission to Study and Develop Reparations Proposals for African-Americans.

**John Legend's Statement - House Judiciary Subcommittee's Hearing on H.R. 40**

*Dear Congresswoman Sheila Jackson Lee, Subcommittee Chairman Steve Cohen, and Chairman Jerrold Nadler,*

*Thank you all for holding this important hearing today on H.R. 40, which marks the beginning of an important path forward towards restorative justice in our nation.*

*H.R. 40 was introduced to create a commission to study the legacy of the trans-Atlantic slave trade and its continuing impact on the African American community. It was introduced to begin to explore federal options to repay slavery's compounding moral debts and, thereby, to heal divisions left by the darkest chapters in our national history.*

*Sixty-five years since Brown v. Board of Education, and half a century after Congress adopted civil rights laws prohibiting second-class citizenship, widespread disparities persist across wealth, education, and health and are almost entirely attributable to policies which have yet to be remedied following our nation's history of slavery.*

*Too many individuals and communities have been disadvantaged due to their family's history of arriving to this land or due to the color of their skin and economic status. Too many families, including my own, have suffered for decades due to mass incarceration, the manifestation of modern day slavery.*

*As a country, we've made some positive strides since slavery was abolished. We still have a long way to go. The time is now for our nation to study and acknowledge the effects and impact of slavery in America. The time is now to shed light on our shared truths, to enable healing through a national reckoning, and to embrace and uplift our shared humanity.*

*H.R. 40 is a critical, first-of-its-kind piece of legislation. It will go beyond exploring the economic implications of slavery and segregation. It will serve as a holistic inquiry to address the gaping wound in the soul of America; one that demands to be healed now.*

*I'm glad the Committee is having these discussions today, and am grateful for the opportunity to join this conversation. I look forward to more progress to come.*

*Thank you,  
John Legend*