



The Center on Race, Law and Justice *presents*

From Here to Equality: Reparations for Black Americans in the Twenty-First Century

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Zoom Webinar

CLE MATERIALS



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Here to Equality Panel

William A. Darity Jr., A. Kirsten Mullen. *From here to equality book excerpt* (view in document)

Speaker Biographies

William A. (“Sandy”) Darity Jr. is 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. He has served as chair of the Department of African and African American Studies and was the founding director of the Research Network on Racial and Ethnic Inequality at Duke. Previously he served as director of the Institute of African American Research, director of the Moore Undergraduate Research Apprenticeship Program, director of the Undergraduate Honors Program in economics, and director of Graduate Studies at the University of North Carolina. at Chapel Hill.

A. Kirsten Mullen is a writer, folklorist, museum consultant, and lecturer whose work focuses on race, art, history, and politics. Mullen is the founder of Artefactual, an arts-consulting practice, and Carolina Circuit Writers, a literary consortium that brings expressive writers of color to the Carolinas. She was a member of the Freelon Adjaye Bond concept development team that was awarded the Smithsonian Institution’s commission to design the National Museum of African American History and Culture. Under the auspices of the North Carolina Arts Council she worked to expand the Coastal Folklife Survey. As a faculty member with the Community Folklife Documentation Institute, she trained students to research and record the state’s African American music heritage. Kirsten was a consultant on the North Carolina Museum of History’s “North Carolina Legends” and “Civil Rights” exhibition projects. Her writing in museum catalogs, journals, and in commercial media includes “Black Culture and History Matter” (The American Prospect), which examines the politics of funding black cultural institutions

Justin Hansford is a Howard University School of Law Professor of Law where he is the Executive Director of the Thurgood Marshall Civil Rights Center, and is a U.S. Representative to the United Nations Permanent Forum on People of African Descent. Professor Hansford was previously a Democracy Project Fellow at Harvard University, a Visiting Professor of Law at Georgetown University Law Center, and an Associate Professor of Law at Saint Louis University. He has a B.A. from Howard University and a J.D. from Georgetown University Law Center, where he was a founder of the Georgetown Journal of Law and Modern Critical Race Perspectives. Professor Hansford also has earned a Fulbright Scholar award to study the legal career of Nelson Mandela, and served as a clerk for Judge Damon J. Keith on the United States Court of Appeals for the Sixth Circuit. Professor Hansford is a leading scholar and activist in the areas of critical race theory, human rights, and law and social movements. He is a co-author of the forthcoming Seventh Edition of Race, Racism and American Law, the celebrated legal textbook that was the first casebook published specifically for teaching race-related law courses. His interdisciplinary scholarship has appeared in academic journals at various universities, including Harvard, Georgetown, Fordham, and the University of California at Hastings. He also is a member of the Stanford Medicine Commission on Justice and Equity.

Rebecca Zietlow is associate dean for academic affairs, Distinguished University Professor, and the Charles W. Fornoff Professor of Law and Values at The University of Toledo College of Law, where she teaches constitutional law, federal courts, and constitutional litigation. Professor

Zietlow is a member of the Burlington, Vermont Reparations Task Force. In 2020, Zietlow was elected a fellow of the American Bar Foundation. She received the University's Creative and Scholarly Activity Award in 2018 and the UToledo Outstanding Faculty Research and Scholarship Award in 2012. She formerly served as chair of the Association of American Law Schools Section on Constitutional Law and its Section on Women and Legal Education. Professor Zietlow's scholarly interest is in the study of the Reconstruction Era, including the meaning and history of the Thirteenth and Fourteenth Amendments. Professor Zietlow is also an expert on constitutional theory, examining constitutional interpretation outside of the courts. Her most recent book, *The Forgotten Emancipator: James Mitchell Ashley and the Ideological Origins of Reconstruction* was published by Cambridge University Press in 2017. Her first book, *Enforcing Equality: Congress, the Constitution, and the Protection of Individual Rights* (NYU Press 2006), studies the history of congressional protection of rights, and the implications of that history for constitutional theory. Her work has been published in the *Columbia Law Review*, *Boston University Law Review*, *Ohio State Law Journal*, *Florida Law Review*, the *Wake Forest Law Journal*, and the *University of Pennsylvania Journal of Constitutional Law*, amongst other publications. Zietlow received her B.A. from Barnard College and her J.D. from Yale Law School.

Tanya Katerí Hernández is the Archibald R. Murray Professor of Law at Fordham University School of Law (USA), where she is an Associate Director of the Center on Race, Law, & Justice and its Head of Global and Comparative Law Programs & Initiatives. Hernández is an internationally recognized comparative race law expert and a Fulbright Scholar who holds a B.A. from Brown University and a law degree from Yale University. Professor Hernández previously served as a Law and Public Policy Affairs Fellow at Princeton University, a Faculty Fellow at the Institute for Research on Women at Rutgers University; a Faculty Fellow at the Fred T. Korematsu Center for Law and Equality, and as a Scholar in Residence at the Schomburg Center for Research in Black Culture. Professor Hernández is a Fellow of the American Bar Foundation, the American Law Institute, and the Academia Puertorriqueña de Jurisprudencia y Legislación. Professor Hernández's scholarly interest is in the study of comparative race relations and anti-discrimination law, and her work in that area has been published in numerous university law reviews, book chapters and in news outlets like the *New York Times*. Her books include *Racial Subordination in Latin America: The Role of the State, Customary Law and the New Civil Rights Response* (including Spanish and Portuguese translation editions), *Brill Research Perspectives in Comparative Law: Racial Discrimination, and Multiracials and Civil Rights: Mixed-Race Stories of Discrimination*. Beacon Press is publishing her forthcoming book *Racial Innocence: Unmasking Latino Anti-Black Bias and The Struggle for Equality*.

From Here to Equality

REPARATIONS FOR BLACK AMERICANS

IN THE TWENTY-FIRST CENTURY

WILLIAM A. DARITY JR. AND

A. KIRSTEN MULLEN

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Introduction: Standing at the Crossroads

In order to see where we are going, we not only must see where we have been, but we must also understand where we have been. —Ella Baker, *AZ Quotes*, 1964

The world has never seen any people turned loose to such destitution as were the four million slaves of the South. . . . They were free without roofs to cover them, or bread to eat, or land to cultivate, and as a consequence died in such numbers as to awaken the hope of their enemies that they would soon disappear. —Frederick Douglass, “Celebrating the Past, Anticipating the Future,” 1875

Racism and discrimination have perpetually crippled black economic opportunities. At several historic moments the trajectory of racial inequality could have been altered dramatically, but at each juncture, the road chosen did not lead to a just and fair America.

The formation of the republic provided a critical moment when blacks might have been granted freedom and admitted to full citizenship. The Civil War and the Reconstruction era each offered openings to produce a true democracy thoroughly inclusive of black Americans. Had the New Deal project and the GI Bill fully included blacks, the nation would have widened the window of opportunity to achieve an equitable future. Passage of civil rights legislation in the 1960s might have unlocked the door for America to eradicate racism.

However, at none of these forks was the path to full justice taken.

From Here to Equality is a book primarily about the economic divide between black and white Americans—how it came to be and how it can be eliminated. Specifically, we contend, a suitably designed program of reparations can close the divide. Black reparations can place America squarely on the path to racial equality.

Reparations programs have been used strategically in the United States and throughout the world to provide redress for grievous injustices. These include the U.S. government’s provision of reparations for Japanese Americans unjustly incarcerated (“interned”) during World War II, the German

government's provision of reparations for victims of the Nazi Holocaust, and the Canadian government's provision of compensation to indigenous peoples who were removed forcibly from their families and confined to Christian, church-run, Indian residential schools.¹

Reversing the effects of slavery for newly emancipated human chattel was the goal of several plans put into action during and immediately following the Civil War. One of the country's earliest efforts to dramatically alter blacks' economic condition was the federal government's post-Civil War plan to give at least forty acres of abandoned and confiscated land as well as a mule to each formerly enslaved family of four (or ten acres per person).

While some maintain that this planned payment of land and a work animal to newly freed men and women in the nineteenth century is a figment of the black imagination, historical records confirm that the promise of reparations was not a myth.² It was inscribed in federal legislation. In fact, the allocation, activated in 1865, of forty acres for formerly enslaved Africans was at least the second such measure the federal government had developed to assign land to the former chattel. The idea that reparations could be an effective method of addressing the effects of slavery and white supremacy has a long history, cycling in and out of popular discourse and the national policy arena. Reparations are as timely today as they were in the 1860s.

The ultimate goal of *From Here to Equality* is to help rejuvenate discussions about and to promote reparations for African Americans. As the final chapter of this book will show, there are several mechanisms for reversing gross inequalities between blacks and whites that overcome the frequent reflexive reaction that this is impractical or infeasible. Real equality is a worthy goal, and it can be achieved.

Reparations are a program of acknowledgment, redress, and closure for a grievous injustice. Where African Americans are concerned, the grievous injustices that make the case for reparations include slavery, legal segregation (Jim Crow), and ongoing discrimination and stigmatization.

ARC—the acronym that stands for acknowledgment, redress, and closure—characterizes the three essential elements of the reparations program that we are advocating. Acknowledgment, redress, and closure are components of any effective reparations project. Acknowledgment involves recognition and admission of the wrong by the perpetrators or beneficiaries of the injustice. For African Americans this means the receipt of a formal apology and a commitment for redress on the part of the American people as a whole—a national act of declaration that a great wrong has been committed. But beyond an apology, acknowledgment requires those who benefited

from the exercise of the atrocities to recognize the advantages they gained and commit themselves to the cause of redress. Redress potentially can take two forms, not necessarily mutually exclusive: *restitution* or *atonement*. Restitution is the restoration of survivors to their condition before the injustice occurred or to a condition they might have attained had the injustice not taken place. Of course, it is impossible to restore those who were enslaved to a condition preceding their enslavement, not only because those who were enslaved are now deceased but also because many thousands were born into slavery. But it is possible to move their descendants toward a more equitable position commensurate with the status they would have attained in the absence of the injustice(s).

Atonement, as an alternative form of redress, occurs when perpetrators or beneficiaries meet conditions of forgiveness that are acceptable to the victims. Achieving these elements of a reparations program requires good-faith negotiations between those who were wronged and the wrongdoers.³

There is no existing mechanism for establishing when African Americans collectively will have reached an agreement that sufficient steps have been taken to justify forgiveness. Consequently, atonement is difficult to accomplish. That is why, in our proposal, we treat restitution as the appropriate form of redress. We have clear metrics for determining when restitution has been achieved that we do not have for establishing the same for atonement.

Specifically, restitution for African Americans would eliminate racial disparities in wealth, income, education, health, sentencing and incarceration, political participation, and subsequent opportunities to engage in American political and social life. It will require not only an endeavor to compensate for past repression and exploitation but also an endeavor to offset stubborn existing obstacles to full black participation in American political and social life.

Reparations demonstrably would be effective if an improved position for blacks is associated with sharp and enduring reductions in racial disparities, particularly economic disparities like racial wealth inequality, and corresponding sharp and enduring improvements in black well-being.

Closure involves mutual conciliation between African Americans and the beneficiaries of slavery, legal segregation, and ongoing discrimination toward blacks. Whites and blacks would come to terms over the past, confront the present, and unite to create a new and transformed United States of America. Once the reparations program is executed and racial inequality eliminated, African Americans would make no further claims for

race-specific policies on their behalf from the American government—on the assumption that no new race-specific injustices are inflicted upon them.

A central theme of *From Here to Equality* is the sustained American failure to recognize the pernicious impact of white supremacy and the sustained American failure to adopt national policies that reverse the effects of white supremacy. At each point that the nation stood at a critical crossroads with respect to its racial future, it chose the wrong fork.

The first two chapters comprise part 1 of *From Here to Equality*. In chapter 1, we examine the historical trajectory of the black reparations movement in the United States, demonstrating the consistent denial of efforts to establish a comprehensive program of compensation for black America.

Chapter 2 is devoted to a systematic analysis of the comparative current status of blacks vis-à-vis whites in the United States. We give particular attention to the racial gulf in wealth accumulation, because wealth (or net worth) is the most powerful indicator of the intergenerational effects of white supremacy on black economic well-being. In the same chapter, we also present evidence showing that many Americans are simply wrong about the magnitude and the causes of racial wealth disparities.

Part 2 of the book is devoted to an analysis of the effects of the American system of slavery on the nation's economic and political development. The third chapter identifies the beneficiaries of slavery both in the near and longer terms. We examine the key role that slavery played in American economic development, in both the north and the south. As we stress throughout the volume, the case for justice must include identification of not only the perpetrators of racial harm but also those who gained from the harm—whether or not they inflicted it.

Chapter 4 examines the first major fork in the road for America—the possibility of ending slavery and producing black citizenship at the founding of the new nation. The period of struggle for independence from Britain was rich with possibilities, possibilities that would have been engendered by ending slavery at the origin of the United States but were summarily forsaken.

In part 3 we consider alternative routes not taken during the period of the Civil War. Chapter 5 is an in-depth exploration of the rejected option of *compensated emancipation*, an option that would have prevented or attenuated the war while also ending black enslavement. Chapter 6 details antiblack atrocities that took place during the war. Readers may be surprised to learn the extent to which even the Union army was unwilling to incorporate blacks who had joined their ranks as equals.

Part 4 investigates the lost opportunities for constructing citizenship for the formerly enslaved in the aftermath of the war. Chapter 7 treats a variety of experiments conducted before, during, and after the Civil War to establish communities of freedmen predicated on creating opportunities for full participation in American life. Chapter 8 describes the ferocious postwar conflict over the Radical Republicans' plan for Reconstruction, which included the provision of at least forty acres of land for freedmen and full political participation for black men. The failure to take the Radicals' path set the stage for the subsequent 150 years of black degradation. Chapter 9 records the destruction of the dreams and ambitions embodied in Reconstruction and the restoration of a regime of white rule in the post-Confederate south.

Part 5 of *From Here to Equality* advances a bill of particulars for the outrages and damages wreaked upon black Americans during the century and a half since the Civil War. Chapter 10 focuses on the abuses of the Jim Crow era, the period of legal segregation in America, while chapter 11 is devoted to the insufficiency of the civil rights era to produce racial equality in the United States. Chapter 10 pivots on the sequence of white massacres that resulted in the annihilation of black lives and property. Chapter 11 centers on the prolonged devaluation of black life throughout the post-civil rights era via discrimination and violence.

The final part of the book consists of two chapters and provides a springboard to the design and implementation of a plan for black reparations. Chapter 12 constitutes a systematic response to reparations' critics, while chapter 13 outlines the potential structure of an actual reparations program. These last two chapters, taken together, supply a systematic response to customary logistical concerns raised about black reparations, with the final chapter offering a detailed description of how best to enact them.

From Here to Equality "draws a thick line from the nation's origins to the present."⁴ The case we build in this volume is based on all three tiers or phases of injustice: slavery, American apartheid (Jim Crow), and the combined effects of present-day discrimination and the ongoing deprecation of black lives. Most advocates of black reparations have focused exclusively on the injustice of slavery as the basis for redress. Law professor Boris Bittker argued that the case for black reparations should center solely on the harms of legalized segregation, while Roy L. Brooks, also a legal scholar, has argued that the foundation for black reparations is "the legacy of slavery and Jim Crow."⁵ We submit that the bill of particulars for black reparations also must include contemporary, ongoing injustices—injustices resulting in barriers and penalties for the black descendants of persons enslaved in the United States.

Sociologist Joe Feagin catalogs the continuing injuries inflicted on black Americans, including wage penalties, physical and psycho-emotional health wounds, and community and institutional damages.⁶ Despite the *Brown v. Board of Education* decision in 1954, a wave of federal legislation in the 1960s and 1970s intended to eliminate legal apartheid in the United States, and the enactment of antidiscrimination laws, blacks continue to bear the weight of American racism.

That burden is manifest in labor market discrimination, grossly attenuated wealth, confinement to neighborhoods with lower levels of amenities and safety, disproportionate exposure to inferior schooling, significantly greater danger in encounters with the police and the criminal justice system writ large, and a general social disdain for the value of black people's lives. The legal apparatus created by the civil rights revolution does little to address the complex web of harms imposed upon black Americans today.

Taken individually, any one of these three tiers of injustice—slavery, the regime of legal segregation and subordination, and current discrimination—makes a powerful case for black reparations. Taken collectively, they are impossible to ignore.

Part 1

1

A Political History of America's Black Reparations Movement

The Civil War of 1861–65 ended slavery. It left us free, but it also left us homeless, penniless, ignorant, nameless and friendless. . . . Russia's liberated serf was given three acres of land and agricultural implements with which to begin his career of liberty and independence. But to us no foot of land nor implement was given. We were turned loose to starvation, destitution and death. So desperate was our condition that some of our statesmen declared it useless to try to save us by legislation as we were doomed to extinction. —Ida B. Wells, "Class Legislation," 1893

Black reparations are damages for America's broken contract with black people. —Mehrsa Baradaran, "Black Capitalism Can't Fix the Racial Wealth Gap (Black Agenda Report)," 2018

Just as enslaved Africans were the first abolitionists—liberating themselves and their families whenever possible—so, too, were black Americans the nation's earliest architects of reparations. American reparations advocates were motivated by the federal government's failure to fulfill its promise of an endowment of forty acres and a mule to the formerly enslaved made on multiple occasions toward the end of the Civil War and in the years immediately following 1865.¹

When Gen. William T. Sherman and Secretary of War Edwin M. Stanton asked Rev. Garrison Frazier, a native of Granville County, North Carolina, what he and other freedmen would need to sustain themselves after the Civil War wound down, Reverend Frazier replied, "Land." Sherman and Stanton had come to Savannah, Georgia, in January 1865 to query black leaders about their vision of the way forward as President Lincoln sought to transform the war-ravaged country. Twenty black leaders, also members of the clergy, had selected the reverend as their spokesman, and he explained, "The way we can best take care of ourselves is to have land and turn and till it by our own labor. . . . We want to be placed on land until we are able to buy it and make it our own."²

The Radical wing of the Republican Party, led by Thaddeus Stevens, Charles Sumner, and John C. Frémont, advocated that lands abandoned by

and confiscated from the former Confederates be allotted to freedmen. Black abolitionist Frederick Douglass, uncharacteristically, initially was unenthusiastic about the “free land for blacks” strategy. As early as 1853, in a letter to Harriet Beecher Stowe, Douglass complained that once freed, former slaves would not take eagerly to agriculture unless coerced. He also argued that the very nature of slavery robbed freedmen of sufficient self-reliance to be successful as independent farmers.³

However, Douglass later came to regret this break with the Radical Republicans. By 1876, before the Republican National Convention, Douglass observed that the ongoing plight of the ex-slaves was due, in large measure, to the failure to grant them land. He favorably invoked the Russian land reform that followed the emancipation of the serfs: “When the Russian serfs had their chains broken and were given their liberty, the government of Russia—aye, the despotic government of Russia—gave to those poor emancipated serfs a few acres of land on which they could live and earn their bread. But when you turned us loose, you gave us no acres: you turned us loose to the sky, to the storm, to the whirlwind, and, worst of all, you turned us loose to the wrath of our infuriated masters.”⁴

Subsequently, Douglass repeated, time and again, the phrase “the serfs of Russia . . . were given three acres of land,” contrasting this with nothing being given to formerly enslaved blacks in America. On August 1, 1880, in a speech given in Elmira, New York, at a celebration of West Indian slave emancipation, Douglass observed:

He who can say to his fellow-man, “You shall serve me or starve,” is a master and his subject is a slave. This was seen and felt by Thaddeus Stevens, Charles Sumner, and leading Republican stalwarts; and had their counsels prevailed the terrible evils from which we now suffer would have been averted. The negro today would not be on his knees, as he is, abjectly supplicating the old master class to give him leave to toil. Nor would he be leaving the South as from a doomed city, and seeking a home in the uncongenial North, but tilling his native soil in comparative independence.⁵

Still later, in a September 24, 1883, speech before the National Convention of Colored Men in Louisville, Kentucky, he repeated the same themes, saying, explicitly, that the ongoing “poverty and wretchedness” of blacks across the south would have been attenuated had the nation heeded the Radical Republicans’ call for land distribution to freedmen. The nation’s descent into postslavery turpitude was aggravated by going “[a]gainst the voice of Stevens, Sumner, and Wade, and other far-seeing statesmen.”⁶

One of the earliest known reparations champions, Callie D. Guy House, born in slavery about 1861 in Rutherford County, Tennessee, was a widow with five children making her living as a self-employed laundry worker and clothes maker.⁷ She took up the cause of the ex-slaves after seeing a copy of the pamphlet *Vaughan's Freedmen's Pension Bill: A Plea for American Freedmen*, which began circulating in black communities in central Tennessee around 1890.⁸

Determined to improve the economic independence of the ex-slaves, Callie House initially joined forces with Walter R. Vaughan, the publisher of the pamphlet. Vaughan was a white Nebraska Democrat and a southerner whose own lobbying efforts on behalf of the formerly enslaved dated to 1870. A former mayor of Council Bluffs, Iowa, and the son of a slaveholder, he had proposed an ex-slave pension bill (H.R. 1119) in 1890.⁹ Eventually, House broke with Vaughan both on principle and tactics.

Vaughan argued that the measure should be called the "Southern tax relief bill" and promoted it for the benefit of stimulating the southern states' economies. Since whites owned the majority of business enterprises, he reasoned, blacks would have to purchase goods and services from them and would thereby generate economic growth throughout the south. He made a tidy sum from the sale of the brochures, which sold for one dollar. Eventually Vaughan grossed \$100,000 against expenses—which included lobbying, printing, and marketing—of about \$20,000.¹⁰

In 1898, House banded with Isaiah Dickerson, a minister and educator, to charter the grassroots National Ex-Slave Mutual Relief, Bounty, and Pension Association (MRBP) in Nashville, Tennessee. Dickerson served as the general manager, and House became the assistant secretary and national promoter of the new organization. Their mission was fourfold: (1) identify ex-slaves and add their names to the petition for a pension; (2) lobby Congress to provide pensions for the nation's estimated 1.9 million ex-slaves—21 percent of all African Americans by 1899; (3) start local chapters and provide members with financial assistance when they became incapacitated by illness; and (4) provide a burial assistance payment when the member died.¹¹ The MRBP modeled its pension plan for the formerly enslaved on the Civil War program for "disabled veterans and families of deceased veterans" approved by Congress on July 14, 1862.¹²

If the federal government could compensate elderly disabled veterans for their contributions to the war effort, the organizers reasoned, why not also provide support for the aged ex-slaves who had contributed so much to the growth and development of the country over their lifetimes as coerced and unpaid laborers?¹³

One of House's first initiatives was to embark on a two-year lecture circuit to build local chapters and create the infrastructure necessary to connect them to the burgeoning national organization. Her impact was immediate and profound. A phenomenal recruiter, House signed up at least 34,000 members during those two years. By 1916, the MRBP's membership was estimated to be around 300,000.¹⁴ The dues the organization collected from its members made it possible for the staff to pursue its goals. When Reverend Dickerson died in 1909, House assumed the top leadership position.

In 1915, the association went on to challenge the federal government in a lawsuit filed on behalf of ex-slaves. The lawsuit asserted that the U.S. Treasury Department owed the freedmen \$68 million—the amount it had collected from the sale of slave-grown and slave-harvested cotton that had been confiscated from Confederates toward the end of and immediately after the Civil War.¹⁵ The claim was denied.

The association's mission and its bulging membership rolls drew the attention of a variety of federal officials and departments. For some in the U.S. government, the association's steadfast belief that involuntary servitude was a human rights violation and that remedies were owed the former slaves was seen as a threat. In 1916, U.S. postmaster general A. S. Burleson sought indictments against leaders of the association, claiming that they had obtained money from the formerly enslaved by fraudulent circulars proclaiming that pensions and reparations were forthcoming. House was convicted and served time in the penitentiary in Jefferson City, Missouri, from November 1917 to August 1918.¹⁶

While the federal government succeeded in shutting down House's organization, her followers continued to advance the campaign. Many of them joined Marcus Garvey's Universal Negro Improvement Association.¹⁷

During the twentieth century, there were numerous incidents in which black claims to reparations seemed justified. Chicago was one of twenty-five cities that erupted in racial violence during the summer of 1919, which became known as Red Summer.¹⁸ Black veterans returning from World War I deployments in Europe and across the globe were frustrated to find that discrimination and the routine violent attacks from whites contradicted their status as full citizens in the United States. To compound matters, well-remunerated employment commensurate with the skills the men had honed during their years in the service was in short supply.

On July 27, 1919, a black teenager who was swimming with friends in Lake Michigan drifted across the "color barrier" and was stoned to death by a group of white men. The police officer who arrived on the scene refused to

arrest the assailants identified by eyewitnesses. The subsequent uproar led to a week of rioting. Ultimately, twenty-five blacks and thirteen whites were killed, 537 people were injured—some of them severely—and over 1,000 black families lost their homes after they were torched by rioters.

Shaken by the carnage and rancor, Illinois governor Frank Orren Lowden took an unprecedented step and created the Chicago Commission on Race Relations. For the first time since Reconstruction, a governmental agency would investigate white violence against blacks and the social and economic condition of blacks.¹⁹ Detailed accounts of the murders, including the death of Oscar Dozier, a black laborer at Great Western Smelting and Refining Works, are described in the 669-page publication's section titled "Epitome of Facts in Riot Deaths." Dozier, unadvisedly, left work before "adequate protection could be furnished" and was attacked by "a mob of 500 to 1,000 white men at Thirty-ninth Street and Parnell Avenue," who stoned him and cut "a two inch stab wound over his heart." No proposal for compensation for the black victims of the riot was advanced by the commission.²⁰

Black nationalist "Queen Mother" Audley Moore, who advocated restitution for African Americans as early as 1950, was a movement pioneer with connections to the Universal Negro Improvement Association. Born in 1898 in New Iberia, Louisiana, at about the same time as the founding of the MRBP, Moore launched the Committee for Reparations for Descendants of U.S. Slaves.²¹ One of her grandfathers had been lynched; one of her great-grandfathers, a white slaveholder, had also owned one of her grandmothers.²² In 1957 and 1959, she formally appealed to the United Nations for reparations for African Americans.²³ Moore's interactions with the UN were forerunners of that global organization's Working Group of Experts on People of African Descent, which was established in 2002 and released its own call for reparations for African Americans in 2016.²⁴

Moore also was a key member of the Republic of New Afrika (RNA), an organization formed in 1968 that issued a claim on the territory of the southeastern United States as a location for the formation of a separate majority-black nation. The foundation of the organization's claim was the broken promise of land for ex-slaves embodied in "forty acres and a mule."²⁵ The RNA sought both land and sovereignty. Moore served as the minister of health and welfare in the RNA's shadow government.

The RNA's first president was Robert Williams, leader of North Carolina's chapter of the National Association for the Advancement of Colored People (NAACP) and a committed advocate of armed black self-defense.²⁶ Williams's position influenced the Black Panthers' subsequent adoption of

a principle of the use of arms for the purpose of group protection from white terror. For Williams and the Panthers, white violence had to be met by black violence.²⁷

In 1963, Malcolm X, while still a minister with the Nation of Islam, issued a call for black reparations at Michigan State University. He demanded, foreshadowing the ambitions of the RNA, that the U.S. government grant land and resources that would enable black Americans to establish a separate territory under black control:

He [Elijah Muhammad, the leader of the Nation of Islam] says that in this section [of the United States] that will be set aside for Black people, that the government should give us everything we need to start our own civilization. They should give us everything we need to exist for the next twenty-five years. And when you stop and consider the—you shouldn't be shocked, you give Latin America \$20 billion and they never fought for this country. They never worked for this country. You send billions of dollars to Poland and to Hungary, they're Communist countries, they never contributed anything here.

This is what you should realize. The greatest contribution to this country was that which was contributed by the Black man. If I take the wages, just a moment, if I take the wages of everyone here, individually it means nothing, but collectively all of the earning power or wages that you earned in one week would make me wealthy. And if I could collect it for a year, I'd be rich beyond dreams. Now, when you see this, and then you stop and consider the wages that were kept back from millions of Black people, not for one year but for 310 years, you'll see how this country got so rich so fast. And what made the economy as strong as it is today. And all that, and all of that slave labor that was amassed in unpaid wages, is due someone today.²⁸

In May 1969, a decade after "Queen Mother" Audley Moore's historic petitions to the UN, militant activist James Forman interrupted the Sunday services at Riverside Church in New York City to issue the Black Manifesto. The manifesto called for \$500 million in reparations from white Americans to be paid by churches and synagogues for the crimes religious institutions had visited upon black Americans in the United States. Forman, in conjunction with the League of Revolutionary Black Workers, had previously presented the manifesto at the National Black Economic Development Conference a month earlier in Detroit.²⁹

The Black Manifesto resulted in donations of \$500,000 in funds, exactly 0.1 percent of the amount initially demanded. The funds helped establish

several organizations intended to support black political and economic advance. These included a black-owned bank, Black Star Publications, four television networks, and the Black Economic Research Center.

The Black Economic Research Center, a nonprofit entity headed by Robert Browne, was a black economic policy think tank.³⁰ Its mission was to collect data on black economic wealth and income, generate proposals aimed at improving black Americans' economic position, and assist public and private agencies working toward similar goals. The Ford Foundation was a contributor throughout the 1970s, but without further financial support, operations ended in 1980.³¹

Today, there are faith-based organizations that have expressed ongoing commitments to the reparations project in the spirit of their ministry. These include the interfaith Fellowship of Reconciliation based in the suburbs of New York City and the Auburn Seminary located in upstate New York.³²

There was a surge in the reparations movement in the mid-1980s, and it grew steadily until 2001. Black auteur Spike Lee launched his film production company in Brooklyn, New York, in 1985 and called it *40 Acres and a Mule*.³³ In 1987, a new group calling for the repair, healing, and restoration of blacks injured by slavery and American apartheid geared up for a major offensive.

Led by Adjoa Aiyetoro and the late Imari Obadele, the National Coalition of Blacks for Reparations in America (N'COBRA) was founded by the National Conference of Black Lawyers, the New Afrikan People's Organization, and the RNA "for the sole purpose of obtaining reparations for African descendants in the United States." Dorothy Benton Lewis and Irving Davis also were instrumental figures in the development of N'COBRA.

N'COBRA hosted a series of meetings and established chapters across the country as well as in London and Ghana.³⁴ Then, in 1989, U.S. representative John Conyers (D-Mich.), with assistance from N'COBRA, introduced H.R. 40 in the 112th Congress, a bill to establish the Commission to Study and Develop Reparation Proposals for African Americans. The commission was to be tasked with conducting research and determining "whether . . . any form of compensation to the descendants of African slaves is warranted."³⁵

Conyers introduced the bill at the start of every Congress and planned to do so until it was passed into law. As we go to press, with Conyers's exit from Congress in December 2017 amid sexual harassment accusations, Rep. Sheila Jackson Lee (D-Tex.) is now the new sponsor of H.R. 40. Sen. Cory Booker (D-N.J.) is the lead sponsor for the Senate version of the bill, S. 1083.

But H.R.40 never has reached the floor of Congress for a vote. The public visibility of the act has been maintained thanks to Conyers's passion for the cause of reparative justice. "Many people want to leave slavery in the

past—they contend that slavery happened so long ago that it is hurtful and divisive to bring it up now,” he wrote in 2013. “But the concept of reparations is not a foreign idea to either the U.S. government or governments throughout the world.”³⁶

Reparations were in the American air. Indeed, between 1993 and 2005, in three separate instances of injustice against blacks, compensation was pursued through different governing bodies to some measure of success. The first instance occurred in 1994, when the Florida legislature decided to investigate atrocities committed against blacks during the 1923 Rosewood white riot, which claimed the lives of an estimated twenty-nine blacks and two whites.³⁷

Florida has an abysmal record of mass white terror directed toward blacks, dating at least from 1913. At that time, many white Floridians were incensed by rumors that European women had fraternized with black soldiers during their World War I tours of duty.³⁸ Between 1913 and 1917, at least twenty-nine lynchings—none of which were prosecuted—were recorded in the state. The greatest number of murders was recorded on Election Day 1920, described by historian Paul Ortiz as “the single bloodiest day in modern American political history.” One black town, Ocoee, was burned to the ground after two black men, Mose Norman and Jule Perry, attempted to vote. Walter White, then assistant secretary of the NAACP, estimated that in Ocoee alone, at least fifty blacks were murdered. Thereafter, Ocoee became a whites-only town.³⁹

More than seventy years afterward, the Florida legislature commissioned its study to determine the causes of the white massacre in Rosewood.⁴⁰ White anger had been ignited when false stories circulated alleging that a white woman had been beaten and raped by a black man. An organized white mob lynched a local black man, Sam Carter, and then proceeded to hunt down other blacks and burn nearly every house in the community. State and local authorities were aware of the carnage but made no arrests.

Many disturbing incidents had occurred in nearby Gainesville immediately before the Rosewood riot. In 1922, the editor of the *Gainesville Daily Sun* had boasted in the pages of his own paper of his membership in the Ku Klux Klan.⁴¹ Furthermore, 100 members of the Klan had marched in Gainesville—fifty miles from Rosewood—the day before the riot.

Local police failed in their duty to protect the Rosewood residents, and they did not investigate the murders. Special Master Richard Hixson, the man who presided over the Florida legislative proceedings, wrote in the culminating report, “It . . . is clear that government officials were responsible for some of the damages sustained by the claimants.”⁴²

After initially recommending \$7 million, the legislative body ultimately approved an award of \$2.1 million—\$150,000 to each person who could document their residence in the community in 1923—and a separate fund totaling \$500,000 for individuals who would receive reparations if they could prove, by application, that they had an ancestor who had lived in Rosewood in 1923.

Nine individuals received payments under the implementation of this law. The claims bill also included a provision for a scholarship fund for the families and direct descendants of Rosewood's residents to attend Florida's public colleges or postsecondary vocational-technical schools.⁴³ Given the extreme level of terror in Florida early in the twentieth century, it is striking that the Rosewood reparations are *the only instance of compensation provided to victims of white terror by the state*. In chapter 10 we describe numerous mass killings and the barbarity directed against black Americans in the first half of the twentieth century. The evidence notwithstanding, to the best of our knowledge, Florida is the only state to make any compensatory payments to the victims of white riots.

The second instance in which blacks were the recipients of some measure of reparative justice—a class-action lawsuit mounted on behalf of black American farmers against the U.S. Department of Agriculture—was a boost to reparations proponents. The case, *Pigford v. Glickman*—named for Timothy Pigford, a black North Carolina farmer, and Daniel Robert Glickman, then secretary of the Department of Agriculture—was settled in the plaintiff's favor for \$1.25 billion in 1999, but ten years later no payouts had been made.

New litigation grew out of *Pigford I*, a class-action lawsuit filed in 1997, in which 400 African American farmers alleged the Department of Agriculture had systematically discriminated against them from 1983 to 1997. The farmers made three charges: the federal agency had procrastinated in processing their loan applications, prevented them from having access to farm loans and benefits programs, and ignored or failed to investigate their claims of discrimination. The result of the second class-action lawsuit, *Pigford II*, was a larger number of eligible claimants. Affected farmers finally began to receive awards in 2013.⁴⁴

Of the 22,505 applicants, 13,348 were approved and received cash or credit up to \$50,000. Less than 1 percent pursued larger amounts. The largest award, \$13 million, was paid to the now-defunct farm collective New Communities, about a dozen farm families in the southwestern counties of Georgia. Eligible black agricultural producers who joined the *Pigford* lawsuit had been given two options when filing their claims: receive a one-time payment

of \$50,000 or present extensive documentation to support a larger claim. Missing records, some of which may have been lost or destroyed by the U.S. Department of Agriculture itself, made it impossible for many of the farmers to file for claims larger than the one-time fixed payment.⁴⁵

For adherents tracking these developments, the constellation of advocates uniting around reparations for African Americans in the late 1990s, back-to-back redress successes, and the moral certainty of their cause signified eventual victory. Unlike the apprehension that had stymied the efforts of Callie House and others lobbying on behalf of ex-slaves 100 years earlier, there seemed to be a growing consensus that the timing was right and national sentiments had changed.

In 1997, the Oklahoma legislature authorized funding for the Oklahoma Commission to Study the Tulsa Riot of 1921 to conduct research on the white rebellion and make recommendations.⁴⁶ The commission found that the Tulsa riot of 1921 occurred during the epoch of the most deadly wave of white urban antiblack violence in the nation's history. Over a two-day period, a white mob torched more than 1,200 black homes, a hospital, a junior high school, several churches, and 191 businesses in Tulsa's Greenwood community, burning them to the ground. Utilizing six World War I-issue airplanes, whites even pursued blacks from the air with rifles and dropped firebombs on them as they attempted to escape. Estimates indicate that as many as 300 African Americans were murdered.⁴⁷

The late John Hope Franklin, celebrated historian and author, grew up in Oklahoma. His father, Buck "Charles" Colbert Franklin, an attorney, worked in Tulsa's Greenwood business district and was in the city when the massacre occurred. The younger Franklin became a consultant to the commission and eventually a plaintiff in a class-action lawsuit seeking reparations.⁴⁸

In 1997, the same year the Tulsa Riot Commission was formed, President Bill Clinton issued a call for colleges and universities to participate in his National Conversation on Race initiative. John Hope Franklin was appointed to chair the conversation. Bethune-Cookman College participated by recruiting six whites and six blacks from Daytona, Florida, and the surrounding counties to participate in a mock trial and judge the merits of black Americans' reparations claims.⁴⁹ The verdict was unanimous in favor of the plaintiffs and included a recommendation that the federal government develop a program to provide restitution to African Americans.

When the Oklahoma Commission to Study the Tulsa Riot of 1921 issued its report three years later, it recommended the 125 survivors be paid reparations. The commission's restorative justice plan also specified solutions such

as a scholarship fund for families affected by the riot, an economic development zone in the Greenwood neighborhood where the violence was greatest, and resources for reburial of any human remains that might be found in the unmarked graves of victims.⁵⁰ Although the Tulsa riot claimed the lives of ten times more black residents than the Rosewood white riot and destroyed significantly more property, the Oklahoma legislature enacted no mandate and made no payments.

Undeterred, in 2000, a group of accomplished litigators and activist scholars founded the Reparations Coordinating Committee and developed a class-action suit on behalf of the plaintiffs in the 1921 Tulsa massacre. Significantly, their efforts were directed exclusively at the 125 extant survivors still living in 2003, not their descendants. Cochaired by Charles Ogletree (Harvard Law School) and Adjoa Aiyetoro (N'COBRA and the International Association of Black Lawyers), the Reparations Coordinating Committee's legal efforts generated a great deal of attention but, ultimately, were not successful. Later, committee members attempted to develop a general class-action suit for reparations on behalf of all African Americans, but it, too, fell short.⁵¹ It is reasonable to assume that all remaining survivors will die before any compensation ever is delivered.⁵²

After the failed attempt to achieve compensation for the survivors of the Tulsa riot, the reparations battleground shifted to Wilmington, North Carolina, and the white insurrection that took place in 1898. The effectiveness of the black male vote in North Carolina, combined with the freedmen's support of the Fusion movement, was an affront to white supremacy. Fusion had brought predominantly white farmers in the Populist movement into a coalition with the Republican Party, increasingly influenced by black voters. Fusion candidates triumphed in the state's 1894 elections, and in 1896 North Carolina elected its first Republican governor since Reconstruction, Daniel L. Russell, breaking the Democratic Party's two-decade hold on the position.⁵³

Meticulously planned and systematically encouraged by white supremacist agitation, the goal of the Wilmington massacre was the overthrow of the city's elected Republican municipal administration. More than 2,000 white Democratic Party supporters, determined to reclaim "North Carolina [as] a WHITE MAN'S STATE and WHITE MEN will rule it," forcibly removed lawfully elected black and white officials from government buildings, attacked blacks across the city, and vandalized and burned dozens of black homes and businesses, including the newspaper owned by brothers Alexander and Frank Manly, the *Daily Record*.⁵⁴

Black casualty estimates ranged from 60 to 300. Many blacks left the city permanently. The plotters were drawn from the "best class" of the city's white people, including, most visibly, Alfred M. Waddell, a former Confederate army colonel who installed himself as mayor after the massacre.⁵⁵ Waddell, a four-time Democratic incumbent congressman, had lost his seat to Daniel Russell in 1878. Russell, a rare member of the planter class who had been a staunch Unionist, had made the even more uncharacteristic decision to align himself with the Republican Party after the Civil War.

Charles Brantley Aycock became a revered education reformer when he was elected North Carolina's fiftieth governor in 1900, but his white supremacist credentials were unassailable. His inflammatory antiblack rhetoric on the stump in the run-up to the 1898 election played an important role in fomenting the white assault in Wilmington.

After learning that the coup was in motion, Aycock, then living in Goldsboro, made his way to the train station, prepared to fight alongside the white rioters. He canceled his plans and remained in Goldsboro when a telegram reached him and the other 500 armed white men who were ready to board the train to Wilmington informing them that the whites were satisfactorily in control.⁵⁶ "Good government in the State and peace anywhere" were within the Democrats' grasp, Aycock said in 1900 when he accepted his party's unanimous nomination for governor, "but [first] we must disenfranchise the Negro."⁵⁷

Julian Carr, an influential tobacco, textile, and banking industrialist born into a slave-owning family, donated sixty-two acres of land that enabled Trinity College to move to Durham, North Carolina, in 1892. Carr's contribution ensured the college's survival and prosperity; it would become Duke University. At the same time, Carr was involved deeply with North Carolina's anti-Fusion Democratic Party. He supported Josephus Daniels in acquiring the Raleigh newspaper, the *News and Observer*, which served as a major organ of the violent white supremacy campaign. In December 1898, a month after the Wilmington massacre, Carr championed the massacre as a "grand and glorious event."⁵⁸

In the aftermath of the butchery in Wilmington, the stage was set for the white supremacists to gain full control of North Carolina's political apparatus. Carr fervently urged white male voters to go to the polls on August 2, 1900, to adopt two amendments, the "grandfather clause" and a poll tax, that effectively would disenfranchise black voters:

It is not my desire to try and stampede your fears by crying "Nigger."

For my part, I would gladly rejoice to strike the word "Nigger" from the

vocabulary of North Carolina politics. But the nigger, in the Providence of God is here, and we believe here to stay. And, I am not ashamed to say in this presence that I have been a friend of the negro, in the negro's place. From my very make-up I am for the "underdog in the fight," so that whenever and wherever the negro has behaved himself, and kept himself in his place, my disposition has been to lend him a helping hand. . . . And yet, after I have said all this; I stand here and declare that as a citizen worthy to enjoy the rights of the franchise the negro is a failure.⁵⁹

Ultimately, the 1898 Wilmington Race Riot Commission recommended, in 2006, that reparations be paid to the descendants of the victims. To this day, the North Carolina legislature has refused to do so.

The third reparations success story—or, at least, partial success story—at the turn of the latest century, involved the 1959 decision of the local school board in Prince Edward County, Virginia, to shut down its school system rather than comply with the *Brown v. Board of Education* desegregation decision. The county's closure of its schools represented one of the most extreme examples of "massive resistance" to the Supreme Court's injunction that the racially dual system of education must come to an end.

While the state of Virginia and Prince Edward County provided vouchers and tax credits to enable white students to attend newly formed all-white academies, no resources were provided for black students to continue their schooling.⁶⁰ The school board's refusal to reopen the public schools until 1964 effectively denied many black students the opportunity to further their education. The chains that were placed on the district's school doors to exclude black students from access to education reminded some of the chains that were placed directly on their ancestors during slavery.⁶¹

Not until 2005—forty-six years after the school closings—did the state of Virginia undertake any effort to atone for the costs of these actions in Prince Edward County. Combining private donations from billionaire John Kluge with state funds, scholarships were offered to the victims of the shuttered school system to enable them to pursue higher education at this much later date. No compensation was offered for past years of lost schooling. Nor was compensation offered to offset the impact of the lost schooling on the affected students' long-term prospects for employment and earnings. Because the victims who still were living were overwhelmingly persons in their fifties and sixties at the time of Virginia's "reparations" plan, only a few were in a position—so deep in adulthood—to take full advantage of a funded opportunity for college and university education.

Despite the widely divergent outcomes of the Rosewood, Pigford, Tulsa, Wilmington, and Prince Edward County claims, excitement surrounded these efforts. They encouraged advocates to speak out about the debt America owed to African Americans. Through diligent research, scholars seeking to broaden the targets of the restitution campaign unearthed and published the names of a dozen present-day corporations that had profited from the Atlantic slave trade in the past. In their view, all slavery-linked profits were unjust enrichment.

The investment bank Lehman Brothers and textile producer WestPoint Stevens, whose fortunes had been built on slave-grown cotton, were called to account, as were the Mobile & Girard Railroad—part of present-day Norfolk Southern Railroad—and the Richmond, Fredericksburg & Potomac Railroad—now CSX—which routinely had rented human chattel by the year to lay rail lines. Dozens of newspaper companies still in circulation founded before and during the antebellum era—Knight Ridder, E. W. Scripps, and Gannett, owner of *USA Today*, among them—had profited from the sale of advertisements promising rewards for the capture and return of runaway slaves, slave auction notices, and recruitment circulars for crews to operate slave ships. Researchers identified dozens of merchants like the Brooks Brothers clothier, which had expanded its operations to capitalize on lucrative southern American and Caribbean plantation markets, the very markets that supplied them with the raw cotton and other slave-made goods the company used to manufacture the clothing it offered to its growing customer base.⁶²

Another potential set of targets emerged in 2000: corporations that had “insured slave owners against the loss of their human chattel.”⁶³ Slaves were human property who could be bought, sold, traded, or inherited. The California legislature requested its Department of Insurance make inquiries about “ill-gotten profits from slavery, which profits in part capitalized insurers whose successors remain in existence today.”⁶⁴ A number of the state’s insurance corporations affirmed their “abhor[rence for] the practice of slavery” and expressed “profound . . . regrets that [their] predecessor was associated in any way with that contemptible practice,” but none offered to pay reparations.

The American International Group predecessor, United States Life Insurance Company (N.Y.), was founded in 1850. One of the results of its self-study was the discovery of an article published in an unnamed periodical in which a policy, valued at \$550, was written on human property listed only as “Charles.” Specifically, conditions of death that were excluded from coverage included the following: “Death to said slave by means of any invasion,

insurrection, riot, civil commotion, or of any military or usurped power, or in case the slave shall die by his own hand, or in consequence of a duel, or by the hands of justice . . . this Policy shall be void, null, and of no effect.”⁶⁵

During the period when reparations advocates were developing restitution strategies based on historical events, few opponents were engaged in the public debate until the emergence, in January 2001, of a singularly energized antireparations pundit. David Horowitz placed an incendiary advertisement in college newspapers across the country, “Ten Reasons Why Reparations for Blacks is a Bad Idea for Blacks—and Racist Too.”⁶⁶ The ads effectively introduced the subject of reparations to a new generation of Americans and led many to review or acquaint themselves with the country’s involvement with the Atlantic slave trade. Horowitz’s position held that only those enslaved and their immediate descendants were due recompense. Since all of those individuals were presumed dead, for Horowitz, the matter was closed.

Horowitz’s platform possibly had the unintended consequence of setting off a series of heated public and private rebuttals, effectively rekindling the reparations conversation. The United Nations hosted the World Conference Against Racism in Durban, South Africa, from August 31 to September 8, 2001, and declared it would seek compensation for slavery as a goal.

Sensing that the time had come to take a dramatic public stand, Rev. Jesse Jackson insisted it was important for companies that had been founded before or during the antebellum period to reveal the extent of their involvement in the Atlantic slave trade and consider making amends. “All those years of work without wages are the foundation of American wealth,” Jackson said. “America must acknowledge its roots in the slavery empire, apologize for it . . . and work on some plan to compensate. An apology is in order. But you must not only apologize with your lips. Repent, repair and remedy go together.”⁶⁷

But how would an estimate of those profits be determined? Using arguments based in part on historical documents she received from the defendants, Deadria Farmer-Paellmann began preparation for a lawsuit against FleetBoston Financial (formerly Providence Bank), Aetna, and New York Life Insurance Company. One of the major items Farmer-Paellmann used to document her case was a 1906 history of the New York Life Insurance Company, which indicated that 339 of the first 1,000 policies written by the firm insured slaveholders against losses of their human property.⁶⁸ Under the auspices of its subsidiary, Nautilus, New York Life Insurance Company also insured the lives of at least 485 enslaved people for their owners during a two-year period in the 1840s.⁶⁹

Farmer-Paellmann's goal was to force the defendants to provide "an accounting, constructive trust, restitution, disgorgement and compensatory and punitive damages arising out of [their] past and continued wrongful conduct."⁷⁰ But momentum, building for the first eight months of 2001, shut down after 9/11, as the nation grieved and attempted to make sense of the events of the day. Farmer-Paellmann's research brought to light a rich potential source for reparations, but the case failed.

Another five years passed before the reparations movement had any prominence again in the news. Between 2007 and 2008, at least six state legislatures issued apologies for slavery or for slavery and Jim Crow, signaling what many believed to be critical encouraging first steps toward reparations. State legislatures in Virginia, Maryland, North Carolina, and Alabama all issued apologies in 2007, while those in New Jersey and Florida made apologies in 2008—and expressed "profound regret" for their state's role in slavery.

When the North Carolina Senate passed its measure denouncing slavery and legal segregation in 2007, state senator Bill Purcell observed that his grandfather was a slave owner, something that had always troubled him.⁷¹ The resolution that Purcell, just two generations removed from slavery times, voted for in North Carolina said, in part, "The General Assembly issues its apology for the practice of slavery in North Carolina and expresses a profound contrition for the official acts that sanctioned and perpetuated the denial of basic human rights and dignity to fellow humans."⁷²

Then, in June 2009, the U.S. House of Representatives and the Senate unanimously passed an apology for slavery. Although these formal apologies garnered headlines and brought the country's unequal history to the attention of many Americans, they were frequently—some would say intentionally—worded in such a way as to preempt actual compensation to the descendants of the enslaved.

The reparations conversation vanished from the headlines, not to return visibly to national attention until June 2014, when journalist and public intellectual Ta-Nehisi Coates published a major article in the *Atlantic* titled "The Case for Reparations."⁷³ The dramatic response to Coates's article reawakened discussion and debate over black reparations in America.

The major compensation strategies pursued over the previous twenty-five years typically have been piecemeal and directed at the courts for remedy. But the courts have not been responsive to class-action suits on behalf of all black Americans for historical injustice, making a large-scale program of reparations via the judicial route unlikely. Not only is there a barrier to suits brought against the government by sovereign immunity, but while private

corporations' exploitation of slave labor was immoral, it was also legal under national laws.

An additional disadvantage of approaches like that put forth by Farmer-Paellmann is the absence of a rationale for reparations driven by the unjust practices of the Jim Crow era. No consideration is given to the harms of legal segregation to remaining living victims or younger generations who also bear the cumulative, intergenerational burden of that history.

Claims for the harms of Jim Crow would be more consistent with the enactment of the Civil Liberties Act of 1988, the enabling legislation that mandated reparations for Japanese Americans who had been subjected to incarceration during World War II. This was accomplished by congressional, not judicial, action. We detail a litany of the wrongs committed against African Americans under legal segregation in chapters 10 and 11.

Furthermore, judicial success that is not greeted with broad popular support—a *level of popular support needed to propel Congress to adopt black reparations*—will result in “massive resistance” comparable to the response to the *Brown v. Board* decision in 1954. Therefore, we conclude that a large-scale program of redress will require congressional action to ensure the provision of coverage and amounts of monies that meet the magnitude of the just claim.

While some anticipated that Barack Obama's election might reignite the debate, he short-circuited the conversation before his presidency began. When the NAACP interviewed him in August 2008, Obama said:

I have a lot of respect for Congressman John Conyers and I'm glad that the NAACP gave him its highest honor this year. While I know where his heart is at, I fear that reparations would be an excuse for some to say “we've paid our debt” and to avoid the much harder work of enforcing our anti-discrimination laws in employment and housing; the much harder work of making sure that our schools are not separate but unequal; the much harder work of lifting thirty-seven million Americans of all races out of poverty.

These challenges will not go away with reparations, so while I applaud and agree with the underlying sentiment of recognizing the continued legacy of slavery, I would prefer to focus on the issues that will directly address these problems and building a consensus to do just that.⁷⁴

As a candidate, not only did Obama have a narrow view of the potential of black reparations; he also assumed that the case for reparations is

based exclusively on the grounds of the enslavement of black people in the United States. His comments completely ignored the case in the decades following slavery—nearly 100 years of Jim Crow and ongoing, present-day discrimination.

Of course, neither has his successor, Donald Trump, been an enthusiast for black reparations. That Trump, the most overtly white supremacist president since Woodrow Wilson, does not support a program of compensatory action for the nation's injustices toward black Americans is wholly unsurprising.⁷⁵ He made his sentiments quite clear when he reacted to protestors holding "Black Lives Matter" signs at a 2015 press conference in South Carolina, charging that blacks complaining about conditions in the United States should "go back to Africa": "There's no such thing as racism anymore. We've had a black president, so it's not a question anymore. Are they saying black lives should matter more than white lives or Asian lives? If black lives matter, then go back to Africa. We'll see how much they matter there."⁷⁶

Certainly Trump's assertion that "there's no such thing as racism anymore" is discredited by his own presidential campaign and the outlook and actions of his most ardent supporters.⁷⁷

Unexpectedly, the 2018 congressional midterm elections were followed by an even greater surge of interest in black reparations. A movement blossomed in early 2019 on electronic network platforms under the label #ADOS, an acronym for American Descendants of Slavery. This digital campaign asserts that black American descendants of persons enslaved in the United States have a unique and exceptional claim on the nation's government for justice.⁷⁸

Coincident with the emergence of #ADOS, the 2020 major party candidates for the presidency engaged seriously with the reparations project for the first time since the Reconstruction era. Marianne Williamson and Julián Castro were most explicit about their support during the early phase of the primary season. However, only Williamson was bold enough to make an explicit commitment to establishment of a fund and to designate an amount to undertake a black reparations program.⁷⁹

Several Democratic candidates also indicated their support for H.R. 40.⁸⁰ As noted above, the bill establishes a congressional commission charged with documenting the long and cumulative trajectory of harms visited upon black Americans and designing remedies for redress that can be translated into enabling legislation for a reparations program. Finally, hearings on H.R. 40 were held before the House Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Liberties, chaired by Steve Cohen

(D-Tenn.), on June 19, 2019, a signal moment because the bill had never before reached that stage of congressional consideration.⁸¹

Of course, any sitting president, at his or her own discretion, can appoint a national commission with a similar charge without waiting for congressional approval. The effectiveness of the commission necessarily is contingent on the convictions and expertise of the commissioners and on the designation of an appropriate deadline for completion of their report, preferably no longer than eighteen months.

For black reparations to become a reality, a dramatic change in who serves as the nation's elected officials must take place, both in Congress and in the White House. New national leadership must be committed fully to black reparations. Making this happen requires, in turn, an inspired national movement dedicated to the fulfillment of the goal of racial justice.