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**African Americans' Demands for Racial Injustice Reparations:
History and Evolution**

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Fulfillment of the Requirements for the Master's Degree in Language and Culture**

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This dissertation is dedicated to anyone ever believed in me, or did not. To my parents Mohammad and Soraya, to my Brothers, my Cats, my bigger Family, my Friends, to my Supervisor, my Partners in the crime, to Mister Right, and to ME! I want to thank ME, I want to thank you ALL.

Affef Rémache

Dedication

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List of Abbreviations and Acronyms

AIM	The American Indian Movement
CONADEP	The National Commission of Disappearance of Persons
CRT	Critical Race Theory
ICC	International Criminal Court
JACL	The Japanese American Citizens League
N'COBRA	The National Coalition of Blacks for Reparations
NIC	The National Industrial Council
NPR	The National Public Radio
PRAIS	The Program of Reparation and Comprehensive Health Care
SPLC	The Southern Poverty Law Center
UDHR	The Universal Declaration of Human Rights
UN	The United Nations
UNCC	The United Nation Compensation Commission
WW I	World War One
WW II	World War Two

Abstract

The main intention of this dissertation is to examine the topic of reparations in general, and the black reparations movement in the United States in particular. In addition to defining and providing specific examples of notable reparations' both in the world and in the United States, the study sheds some light on the issue of African Americans' demands for racial injustice reparations as a compensation to the harms their ancestors endured under slavery, and to the frustration they suffered from because of the Jim Crow laws, segregation, and racial inequalities throughout American history. Because of the constant resistance to reparations calls, the work shows how disparities still exist between the whites and the other minorities, in particular the blacks. In short, this dissertation suggests that African Americans have to advocate for self-reliance rather than call for an unreasonable remedy for their current plights. It also argues that by failing to acknowledge and adequately respond to the black redress movement, the US government has missed a great opportunity to achieve reconciliation within its multicultural society.

ملخص

تتناول هذه المذكرة بالدراسة موضوع التعويضات بشكل عام، وحركة تعويضات السود في الولايات المتحدة بشكل خاص. بالإضافة إلى تعريف وتقديم عدة أمثلة للتعويضات البارزة في كل من العالم والولايات المتحدة الأمريكية، تلقي الدراسة بعض الضوء على قضية مطالب الأمريكيين من أصل أفريقي بتعويضات الظلم العنصري كتعويض عن الأضرار التي عانى منها أسلافهم في ظل العبودية ، والإحباط الذي عانوا منه بسبب قوانين جيم كرو ، و الفصل العنصري، وعدم المساواة العرقية عبر التاريخ الأمريكي. وبسبب المقاومة المستمرة لدعوات التعويض، يبرز هذا العمل التفاوتات الموجودة بين البيض والأقليات الأخرى، وخاصة السود. باختصار ، تبين هذه المذكرة إلى أنه يجب على الأمريكيين من أصل أفريقي الاعتماد على الذات لتجاوز وضعهم الحالي بدلا من الدعوة إلى تعويضات غير منطقية. كما ترى هذه الدراسة أيضا أنه من خلال الفشل في الاعتراف بحركة إنصاف السود والاستجابة لها بشكل غير كاف، أهدرت الحكومة الأمريكية فرصة سانحة لتحقيق المصالحة داخل مجتمعها متعدد الثقافات.

Introduction

Since the dawn of time, the human race has been split into two social divisions. On one side, there are the powerful, and most of the times, the oppressing powers. On the other side, there are the subservience and oppressed minorities; who feed by their bodies and sweat the privileged class. Yet, for racial minorities like the Blacks, or oppressed indigenous people; the dream of breaking the chains of this gross injustice never left those groups.

Ethnic minorities have been under either slavery, oppression, torture, or many other sorts of human rights violation. From the cruelty of slavery, to the severe human rights violations in Argentina and Chile, caused by the military dictatorship which governed the two countries by force, to victims of genocide and mass homicide in Bosnia from 1992 to 1995, to crimes against humanity and ethnic cleansing; to the victims of chemical warfare in Iraq and Iran, these oppressed people suffered greatly.

The African American fight against slavery, social degradation, and racial segregation is the most well-known struggle in human history. In the course of American history, Blacks had been subject to racial injustice and social indignity. Much of it came from the notion that Blacks are the only race who fits to slavery and can bare the hard work; as if they are not humans.

Ever since slavery started to be abolished until 1863, when President Abraham Lincoln signed the Emancipation Proclamation ending slavery in most states, worldwide movements have been founded to denounce all kinds of infringements and violations which have encroached upon a human free will and dignity. Strong voices have arisen to call for social and political recognition. Certain key events in history have given birth to several social and political movements whose aim was to gain equal rights for minorities and to change society's deep rooted thinking regarding racism.

Several decades later, many American anti-racism movements forced American policymakers to face the impact of racism practiced for centuries and its social, political and economic implications. Indeed, these movements' bold moves called for social reforms, redress, and reparations as a way of compensation to all kinds of human rights' violations, racial discriminations, repression and tyranny, mainly for slaves and/or their descendants. It is in this logic that the present research work examines African Americans' demands for racial injustice reparations. To do so, this study delves into the history and evolution as well as important achievements of this movement of reparations for African Americans.

The global movement of reparations has taken a long road and sharp transitions all over the world. It has, at times, weakened and, at other times, has grown stronger over the decades of the 19th and 20th centuries; but has always remained consistent in its demands for restitution and recompense for the most horrific crimes committed against humanity. African Americans were one of the minorities that suffered from those crimes, and were also among the first who not only called for equal rights but demanded reparations for past racial abuses.

Accordingly, this research work will provide broad explanations in addition to specific descriptions concerning African Americans frustration, slavery, and racial inequality throughout American history. It will also broadly shed light on the issue of African Americans' demands for racial injustice reparations, as well as other notable reparations' movements around the world. Besides, it will precisely depict a clear image of the movement's success or failure in terms of reparations.

American proponents of reparations for slavery disagree over how kinds of reforms and reparations would look like, pecuniary or non-pecuniary, one-off cash as in south Africa, or transfers to individuals or compensation in a form of transfers or pensions like the Germans reparations to Jewish victims of Nazism, trusts or funds, the return for land or job guaranties as Black workers.

In fact, the dissertation ultimate aim is to define the demands for racial injustice reparations, and enlighten the reforms or compensations and redress that have been made in the United States to victims of slavery and/or their descendants, and major examples around the world. Specifically, this work provides clarification on the African American's issue, mainly its origins, and its evolution, as well as revolutionary achievements. In addition, the aim is to introduce this movement to anyone interested in the field of human rights and liberties, and to spread collective awareness about reparation and redress movements across the world.

Built essentially on compensations, the Black redress movement is an attempt by African Americans to secure redress and financial reparations from the federal or state governments for the different kinds of abuses practised by whites against the slaves, free Blacks, and their descendants. Given this argument, the present work's main research statement is as follows: Are reparations prone to foster reconciliation and end racial discrimination within the American culturally diverse society?

This topic is controversial as it raises many queries that need to be answered. Therefore, one of the major interests of this research is to explore and provide answers to such questions as: What is meant by reparations? What kinds of reparations have been made to persecuted people around the world? In which form are they found? Are they fair? Are they in accordance with the movements' demands? Have African Americans' demands for reparations been fulfilled? Why or for what reasons is this issue still debated? What are the future prospects of this movement on race relations? Or, are reparations a cure which may promote reconciliation in the American society?

In order to highlight the importance of this study, it is crucial to refer to some of the major scholarly works that have already dealt with and tackled this theme in relation to reparations for racial injustices against Blacks in the United States. The subject of demands for

Reparations, especially the case for African Americans, has always been put into debatable discussion. Many scholars and researchers in politics and history have written about this issue, they have investigated and have looked over history and studied historical events. For instance, Joe R. Feagin, in his book *Racist America: Roots, Current Realities and Future Reparations*, lays bare the economic, ideological, and political structure of American racism. In doing so, he develops an antiracist theory rooted not only in the latest empirical data but also in the current reality of racism in the United States.

Today, the debate over reparations, whether African Americans should be compensated for decades of racial subjugation, stands as the most racially divisive issue in American politics. In this short, definitive work, Alfred L. Brophy, an expert on racial violence, in *Reparations: Pro and Con* regards the debate over reparations from the 1700s to the present, examining the arguments on both sides of the current debate.

In her book, *Reparations for Slavery and the Slave Trade: A Transnational and Comparative History*, Historian and Professor Ana Lucia Araujo advances that slavery and the Atlantic slave trade are among the most heinous crimes against humanity committed in the modern era. Yet, to this day no former slave society in the Americas has paid reparations to former slaves or their descendants. European countries have never compensated their former colonies in the Americas, whose wealth relied on slave labor, to a greater or lesser degree. Ana Lucia Araujo argues that these calls for reparations are not only for dead, but have a long and persevering history.

Roy L. Brooks, in *Atonement and Forgiveness: A New Model for Black Reparations*, reframes one of the most important, controversial, and misunderstood issues of modern times, in this far-reaching reassessment of the growing debate on Black reparations. Brooks' book shifts the focus of the issue from the backward-looking question of compensation for victims to a more forward-looking racial reconciliation.

In another book entitled, *When Sorry Isn't Enough: The Controversy over Apologies and Reparations for Human Injustice*, Roy L. Brooks poses many questions relate to human injustices inflicted upon minorities, in particular blacks. Such questions include: How much compensation ought to be paid to women who have been raped thousands of times? What would the members of the Commission want for their daughters if their daughters had been raped even once? Why did the US offer money compensation to Japanese Americans relocated to concentration camps during World War II, while not even apologizing to African Americans for 250 years of human bondage and another century of institutionalized discrimination? Is Germany's highly praised redress program, which has paid billions of dollars to Jews worldwide, a success, and, as such, an example for others?

The research will be conducted through different approaches. The historical and descriptive approaches are indispensable to describing the African American's journey from slavery to freedom, and from exclusion to inclusion. In parallel with the historical and descriptive approaches, the comparative approach will be used to compare examples, models and cases of reparations in the world. They will also serve to observe the differences between past reparation movements and the contemporary ones. The use of different approaches aims to provide a deep understanding, as well as a meaningful clarification of the important details and facts that surround the issue of African Americans' demands for racial injustice reparations.

The research will be mainly based on primary sources, represented in the US Constitution, the United Nations Principles and Guidelines, and laws, and on secondary sources such as books and articles. In addition, a variety of other sources and materials, including speeches, testimonies, and media reports, will be considerably used, in order to enrich this dissertation and give it both a conspicuous image, and credibility.

The current dissertation is structured into three chapters. The first chapter is entitled “Reparations: Definitions, History, Legal Framework and Cases of Redressing Past Wrongs”. Its main focus is on providing definitions and models for reparations. It also provides a historical background and the legal basis on the issue of reparations and on the different forms of reparations. Finally, the chapter highlights and discusses several cases of reparations.

The second chapter is entitled “Reparations for Historic Wrongs in the United States”. It extensively deals with the history of the reparations movement in the United States. It also provides several examples of reparations decided by the American government to compensate the Indians, the so-called Native Americans, and the interned Japanese during the Second World War, the Jews for the Holocaust, and the victims of September 11.

The third chapter is entitled “The History and Contemporary Claims of the African-American Reparations Movement”. It examines the history of the Black Redress Movement, outlines its objectives, deals with proponent new voices and opponents against this movement, and describes their arguments and reasoning. The chapter also questions whether reparations for Blacks are enough to calm down tensions between the two races, foster reconciliation, end racial discrimination, and ultimately pave the way for a post-racial America.

Chapter One

Reparations: Definitions, History, Legal Framework and Cases of Redressing Past Wrongs

The meaning of the term reparations, as it is used today, is a recent topic, but the notion itself is very old. Calls for reparations, indeed, existed in different nations since a long time ago and they still persist nowadays. These demands for redress essentially focus on two main forms of reparations. The first form requests economic compensation in terms of money payments. The second form concentrates on apologies by the authorities responsible for past misdeeds to individuals or groups asking for redress. Advocates of reparations argue that before that could happen there must be three steps: recognition of past wrongs, a formal apology for those wrongs; and compensation for those wrongs. Therefore, what is meant by the term reparations?

1.1. Defining Reparations

Before dealing with the history of reparations for past wrongs, it is first significant to provide an appropriate definition to the term reparations. In fact, there are several definitions of reparations. For example, reparations, as defined by the *Oxford Advanced Learner's Dictionary*, is “money that is paid by a country that has lost a war, for the damage, injuries, etc. that it has caused, or the act of giving something to somebody or doing something for them in order to show that you are sorry that you have caused them to suffer”.

In his book, *Making whole what has been Smashed: On Reparations Politics*, where he examined the recent political efforts to rectify the racial injustices bequeathed from the American past, John Torpey defined the word reparations in these terms: “reparations is in part a terminological matter, and hence one of perception-reparations may be whatever transfer one chooses to call reparations” (146). Carla Ferstman and Mariana Goetz define reparations as the process and result of compensating for harm, loss, or any other damage done to a person, a

group, or to an organization. It is the act of making amends for a wrong done by paying or providing other assistance to those who have been wronged. It is also monetary or material compensation paid by a defeated nation to another nation for damages or expenditures incurred as a result of hostilities (3-5).

With reference to history, reparations meant postwar money payments or indemnities given by the loser nation to the triumphant for the damage caused by the war. Following the World War II, the term reparations embodied a little bit different meaning. Most remarkably, it meant money payments to the victims of the conflict rather than to the victorious nation (Torpey 42-43). Put differently, the legal recipient of cash compensation shifted from victor to victim.

Though paying money to victims for losses has been a key element in reparations since its inception, today countries provide land and money as a form to make up for caused misdeeds. In this respect, Lori S. Robinson notes:

Nations are paying damages for injuries and wrongdoing with land and money. In international law, making amends or giving satisfaction for a wrong or injury-as reparations is defined-is standard practice. The United Nations negotiates it. The international Court of Justice orders it. Some nations even give it without prodding from foreign governments or institutions. (1)

Compensation also plays a crucial role in the current African-American reparations discourse. For example, one of the activist movements for black reparations, namely the National Coalition of Blacks for Reparations in America (N'COBRA), defines reparations as follows:

A process of repairing, healing and restoring a people injured because of their group identity and in violation of their fundamental human rights by governments, corporations, institutions and families. Those groups that have been injured have the

right to obtain from the government, corporation, institution or family responsible for the injuries that which they need to repair and heal themselves. In addition to being a demand for justice, it is a principle of international human rights law. (Ritchie, A. et al. 25)

According to the Encyclopedia Britannica reparations are a set of principles and means for making monetary payments to members of distressed groups based on past wrongdoings against them or their ancestors. Reparations are used to deal with harms in international relations between nations, ethnic groups, and other victims of long-term economic and sociopolitical injustice, as well as military or police brutality. Two of the main examples are reparations paid to victims of the German Holocaust in Europe from 1930 to 1945, and the partial compensation of the Japanese Americans for their internment and loss of property in the United States during World War II.

At the beginning of the twentieth century, as cited in the Encyclopedia Britannica, interstate reparations were punitive treaty-based mechanisms paid for by the abandoning side of the conflict, such as the compensation paid by Germany and its allies. The notion of reparations is nowadays understood to mean both war damage and compensation and other measures granted by the responsible parties to victims of serious violations of human rights.

Economic reparations means compensation for economic losses suffered or crimes perpetrated against individuals, paid for in money, labor, goods, and so forth by a country defeated during a war. In politics, compensation for abuse or injury is widely understood. In the last century, the significance of reparations has greatly changed. The United Nations has guaranteed the right of the victim of an injury to receive reparation and the responsibility of the party responsible for providing it. In transitional justice, compensation is the measures adopted by the State in the administration of any kind of compensation or retribute for the victims to address gross and systemic breaches of human rights law or humanitarian law.

Reparations are unique to all the transitional justice mechanisms as they deal directly with the victim situation (The United Nations Guidelines and Principles).

What these definitions have in common is the idea that the unique path to compensate for past wrongdoings is to recognize the suffering of victims; provide remedial action in some form for the violations. Both symbolic and material repairs may be possible. They can be in the form of public recognition or apologies for violations of the past and indicate a commitment of state and society to address former abuses. Redress for past injustices can take many different forms. The term does not always refer to monetary reparations; it can also refer to an apology or additional social programs to assist those in need.

1.2. The Legal Basis of Reparations

The human losses as a consequence of the atrocities of the Second World War showed that human rights were neither recognized nor respected at that time. Following the end of that war, governments all over the globe made concentrated efforts to promote international peace and conflict prevention. Towards this end, the United Nations (UN) was established in June 1945.

On December 10, 1948, the UN General Assembly declared the Universal Declaration of Human Rights (UDHR), which listed thirty rights and liberties that all people must have. Since then, the UDHR has remained the foundation of all international human rights legislations. In addition to ensuring the human rights of all humans, the Universal Declaration of Human Rights has obliged all countries to guarantee the effectiveness of applying its articles and rights.

1.2.1. The New United Nations Principles and Guidelines and Victims' Rights to Reparations

More than five decades later, precisely in 2005, the United Nations General Assembly assumed by majority vote the Basic Principles and Guidelines on the Right to a Remedy and

Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. In the same year, the UN Commission on Human Rights, followed by the Human Rights Council in 2006, approved the renewed set of principles for the protection and promotion of human rights through action to fight exemption from punishment, harm, or retribution.

On this issue, Ferstman and Goetz noted:

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law recognize that [A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.] (12)

The General Assembly states the provisions providing a right to a remedy for victims of violations of international human rights law found in numerous international instruments, in particular article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, and article 14 of the Convention against Torture and Other Cruel crimes (The United Nations Human Rights Law).

The General Assembly also recalled the provisions providing a right to a remedy for victims of violations of international human rights found in regional conventions, in particular article 7 of the African Charter on Human and Peoples' Rights, article 25 of the American Convention on Human Rights, and article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (The United Nations Human Rights Law).

The Rome Statute of the International Criminal Court requires the establishment of "principles relating to reparations to, or in respect of, victims, including restitution,

compensation and rehabilitation". It also demands the Assembly of States Parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, and mandates the Court "to protect the safety, physical and psychological well-being, dignity and privacy of victims" and to permit the participation of victims at all "stages of the proceedings determined to be appropriate by the Court" (The United Nations Human Rights Law).

Knowing that, in respecting the victims' right to take advantage of remedies and reparations, the international community continues supporting the predicament of victims, survivors and future human generations and reaffirms the international legal principles of accountability, justice and the rule of law. Adequate, efficient and speedy reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be in proportion to the seriousness of the violations and the harm suffered.

It is agreed in the United Nations Human Rights Law that compensation should be granted for any tangible economically assessable damage, as appropriate and proportional to the seriousness of the offense and the circumstances of each case, resulting from gross violations of international human rights law. Redress must be approved for serious violations of international humanitarian law, such as physical or mental harm, lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential or moral damage.

1.2.2. The United Nations Compensation Commission

The United Nations Compensation Commission (UNCC) was founded in 1991 as a subsidiary institution of the United Nations Security Council to process claims and compensate victims of Iraq's invasion and occupation of Kuwait. Because the Security Council has repeatedly confirmed Iraq's responsibility for such losses and damage, the

UNCC's main task was to assess whether or not the damage was directly attributable to Iraq's unjustified invasion and occupation of Kuwait. As a result, rather than acting as an international court or tribunal, the UNCC acted as a claims commission; to process claims and pay compensation for losses (The United Nations Compensation Commission).

The UNCC has its Governing Council as the Commission's policy-making body, which operates within the context of applicable United Nations Security Council resolutions. As such, it defined the criteria for claiming compensability, the rules and processes for claim processing, the guidelines for the administration and funding of the Compensation Fund, and the procedures for compensation distribution. These procedures are made by commissioners, whom are chosen by the Executive Secretary for their integrity, experience and expertise in such areas as law, accounting, loss adjustment, assessment of environmental damage, and engineering. They are international lawyers and other professionals with established international reputations (The United Nations Compensation Commission).

1.2.3. Evolution of Reparations' Rights in International Law

International law is a system of conventions and contracts between states, which governs how governments interact with other nations, their citizens, and their enterprises. States were the main subjects in the old international law, and when harm occurred and remedies were set out, it was a matter of inter-state relations and inter-state responsibility. It is a fundamental of international law that the failure of an undertaking means a responsibility to provide sufficient compensation.

For a long time, when internationally protected human rights were not yet proclaimed, wrongs committed by a state against its own nationals were considered primarily a domestic matter. However, wrongs committed by a state against nationals of another state could only give rise to claims by the other state trying to assert its own rights, rather than the rights of individual persons or groups of persons.

After World War II, it was recognized that human rights were no longer a matter of sole domestic legal authority. As a result, victims of human rights offenses had the right to pursue their claims for redress and reparation before national justice mechanisms, and also before international instances. Remedies in international human rights law have become a requirement for obtaining justice. As a consequence, the legal basis for the right to redress and restitution became securely entrenched in the complex corpus of international human rights treaties, which are now generally ratified by almost all states.

Furthermore, a substantial quantity of case law established by international judicial organizations, like the European and Inter-American Courts of Human Rights, gave real expression to the meaning and value of access to effective remedies at national and international levels.

1.3. Major Forms of Reparations

Genocide, crimes against humanity, and war crimes are globally condemned as the most shockingly evil crimes, with abusers viewed as enemies of all humanity. It has long been acknowledged that people guilty for such crimes must be held accountable, as must the institutions, organizations, and governments that caused the atrocities to occur. International law recognizes the need to give cures for international wrongful conduct. This has been consistently confirmed by national and international courts' legislation.

The necessity to provide remedies is also mentioned in a number of international treaty texts, and it was recently confirmed by the United Nations with the adoption of the Basic Principles and Guidelines on the Right to Remedy and Reparations for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law by the General Assembly in December 2005.

According to the UN Basic Principles and Guidelines reparations measures should take into account the precise details of the unfair treatment as well as the impact on harmed groups

and entire communities. As stated in the preamble to the UN Basic Principles and Guidelines on the Right to remedy and Reparation, modern forms of victimization, while primarily intended on individuals, may also be directed against groups of individuals who are collectively targeted. For example, genocide, which by definition targets national, ethnic, racial, or religious groups, damages not just the individual victims but also the group's shared identity.

The Holocaust brought about major changes in international law. The numerous restitution initiatives that resulted can be viewed as significant for future national and international reparations procedures. Some of the major indicators from Holocaust restitution measures that may be particularly relevant for present and future reparations efforts are unifying survivors' communities to improve political influence and support for reparations, as well as to assist with money payments, contributing to the procedural growth of mass claims procedures by recognizing distinct beneficiary categories through customized and pooled award systems, using expedited claims processes with flexible evidence requirements, as well as creative participation of civil society organizations, governments, specialized administrative tribunals, and courts, extensive knowledge in the recovery of both public and private assets and property (Taylor et al. 113).

There are many examples around the world of victims of different criminal acts, like persecution, crime or even genocide; who later on formed groups or even individually demanded compensation and reparation from the criminals. Their main objective has been to obtain justice through a combination of negotiations for apologies for the physical harms, money payments to people and groups, and the recovery of properties and assets that had been confiscated during the criminal events. Some of the famous cases of reparations for past injustices are provided below.

1.4. Cases of Reparations

At this point, it is imperative to discuss some of the most important reparations cases made around the globe. The objective is to find out how these were made, under what conditions, and whether they achieved their intended plans and goals. Germany had previously paid reparations to the Allies forces after the First World War (1914-1918), but in a way and intensity that likely led to a renewal of hostilities later in the century. In many cases around the world, including Northern Ireland, the Balkans, the Middle East, South Asia and elsewhere, the notion of reparations is regarded by some as a potential instrument to help resolve chronic ancestral complaints.

Going back to history, France paid Germany reparations after the Franco-Prussian War of 1872 (Howard 446). Germany paid France reparations after World War I and the Soviet zone of Germany paid reparations to the Soviet Union after World War (Trachtenberg 3-4). Iraq has paid, and continues to pay, reparations on account of the destruction it caused during the Gulf War (Burns 1). These cases are distinguished on the grounds that the reparations were not paid voluntarily, they were extracted by the victors, as spoils, as a condition for peace, and they were paid to states.

The current wave of reparations in Eastern Europe arose with the end of the Cold War. In the newly democratic states, individuals whose property had been confiscated by Communist governments sought the return of that property or compensation. The most notable reparations programs were established in the Czech Republic and Germany (on account of East German expropriations). Also in the 1990s, reparations programs were established in Japan, Argentina, Chile, and in Iraq.

1.4.1. The Argentinean Reparations Program for Grave Violations of Human Rights (1976–1983)

After defeating anarchy and restoring democracy, the concept of reparations was raised in Argentina. The process entailed the following questions: what kind of damages should be repaired? What are the reparations supposed to mean? What to achieve with reparations programs? Who should be included among the compensation recipients? Several modifications have occurred in Argentina's reparations program in order to find the best way to deal with the tragic repercussions of the previous military dictatorship and its influence on those directly affected as well as society as a whole.

The attempt to add legal responsibility was abandoned in the mid-1980s, and by the early 1990s, the program solely featured monetary reparations. Nonetheless, as a clear indication of the necessity to restore national history and communal memory, the program has become increasingly broad. It incorporated a variety of reparative initiatives.

In December 1983, the National Commission on the Disappearance of Persons (CONADEP) was established with the aim of investigating the destiny of thousands of people who went missing during the Juntas' rule. Thus, CONADEP, which was described as a truth commission, served as the foundation for future judicial proceedings. The Argentinean reparations program is remarkable and extensive, and was broadly divided into two broad categories (Gualde and Luterstein 416).

Gualde and Luterstein have explained that the first is pecuniary reparations, which have been carried out since 1991 with the goal of providing economic reparations to victims of state terrorism. Of the 22,234 applications filed under Law N° 24.043, 9,776 were granted. A number of claims required the intervention of the National Supreme Court of Justice on appeal, which ruled in favor of the claims being covered by the provisions of this law (417).

The second is non-pecuniary reparations like the truth commissions and accountability measures. The Argentinean reparations program included not only monetary compensation for victims, but also the ability to articulate various forms of reparation, such as accompanying victims, ensuring victim-sensitive treatment during the application process, and acknowledging the value of their story. Regardless of the form of reparations applied, legislation is one of the most powerful tools in a reparations plan. It is essential to have a legal framework that organizes and formalizes the program. As former Inter-American Court of Human Rights Judge Antônio A. Cançado Trindade stated in the Bulacio case: “the Law intervenes to reconcile the surviving victims with their fate, to free human beings from brute force and revenge”.

1.4.2. The Reparations Policy for Human Rights Violations in Chile

For approximately seventeen years, from 1973 to 1990, Chile was ruled by a military dictatorship that first ruled under states of constitutional exception, internal war, martial law, and then under a new constitution promulgated in 1980. All through this time, the regime engaged in systematic violations of human rights. Returning exiles, those who had been fired from their jobs for political reasons, and peasants who had been excluded from agrarian reform and expelled from their land were all recipients of reparations programs in Chile.

In the case of political prisoners, the government's immediate goal in 1990 was to free them. The Program of Reparations and Comprehensive Health Care, which provided medical assistance, including psychological care, free of charge in the public health care system, has benefited all of the groups listed above. Families of victims of human rights violations or political violence identified in the National Truth and Reconciliation Commission's report are entitled to a monthly reparations pension under Law 19.123 of February 8, 1992 (Lira 56).

It stated that the pension must be requested in writing. Additional cases were added to the commission's list after they were validated by the newly formed National Corporation for

Reparations and Reconciliation. The reparations pension was suitable with any other benefits that the beneficiary received at the time, or would receive in the future, as well as any other social security benefits, according to Article 24 of the Chilean law. The surviving spouse received 40% of the total, or \$90,667 pesos (US\$215); the petitioner's mother or, in her absence, the father, received 30% of the total, or \$68,000 pesos (US\$161); the surviving mother or father of a victim's out-of-wedlock offspring would receive 15% of the total, or \$34,000 pesos (US\$80); and each of the children of a disappeared person would receive (Lira 59). The monthly pension in 1996 was \$226,667 Chilean pesos (US\$537), based on the current exchange rate. Additional cases were added to the commission's list after they were validated by the newly formed National Corporation for Reparations and Reconciliation.

1.4.3. The Reparations Program in Brazil

On March 31, 1964, a coup d'état against President Joao Goulart began a twenty-one-year dictatorship in Brazil. As a result, during the early years of the dictatorship, the intensity of political repression increased over time, and later democratization was also an increasing process that took several years. Brazil, unlike most other countries, has not established a comprehensive national program to address all human rights violations committed by the military regime.

Starting in 1973, and even during the dictatorship, a series of unrelated laws and decrees dealing with banishment, illegal imprisonment, and other issues were enacted at various times, and complementary measures regarding the reinstatement and compensation of dismissed public servants and workers were still studied by Congress and the government. Several states have established local compensation programs for torture victims. Nonetheless, Brazil has only one federal program of reparations for political violence fatalities. On August 28, 1979, the military regime finally issued the Amnesty Law; which was later expanded by other legislative measures (Cano and Salvaio Ferreira 105).

Thousands of people who had been exiled, banished, or driven into hiding were able to return under the law of Amnesty, which was not as unrestricted and comprehensive as the movements had demanded. It also freed thousands of political prisoners. With the adoption of the new democratic constitution in 1988, the Ministry of Justice established a commission to investigate allegations made by public servants who had lost their jobs or faced illegal administrative sanctions as a result of political persecution (Cano and Salvao Ferreira 105).

The Commission of Relatives, human rights organizations, and the House of Representatives' External Commission for the Search for Political Disappearance Victims held a national conference in 1993 to discuss legal projects that would allow the State to accept responsibility for such cases. But since the Federal Program of Reparations, as represented by Law 9, 140, was limited to dead victims, several states passed legislation to compensate living victims of gross human rights violations, particularly torture victims. As a result, these laws were enacted as a supplement to Law 9,140 (Cano and Salvao Ferreira 110-11).

The fact that compensations are granted to victims who suffered physical or psychological impairment is the main source of contention in this type of legislation. This means that victims are asked to describe the tortures they have endured, as well as to demonstrate their impairment in some cases. Victims' organizations have always objected to attempts to categorize cases based on their unique features, particularly the proposal to award different compensations depending on the severity of the torture.

1.4.4. Reparations in Dayton's Bosnia and Herzegovina

The Bosnia and Herzegovina conflict, which lasted from 1992 to 1995, resulted in the deaths of hundreds of thousands people, as well as widespread torture, rape, expulsions, property destruction, and ethnic cleansing, in addition to the displacement of approximately two million people. The conflict had devastating financial and human consequences for the

country. Victimization took many forms for different segments of society. Even for those who were able to resume their lives following the conflict, the lack of formal acknowledgement of the crimes, lack of efforts at accountability, and many war-time violations that went unaddressed, made moving forward all the more difficult.

Serbia was not found guilty of genocide in Bosnia and Herzegovina by the International Court of Justice on February 26, 2007. It did come to the conclusion that the Srebrenica massacres in 1995, which resulted in the deliberate killing of 7,000 or more Bosnian Muslims, were not genocide. It also found that the Serbian government failed to fulfill its legal obligations under the Genocide Convention by failing to prevent or punish these atrocities. Many had kept hoping that the International Court of Justice's decision would help to provide a remedy and reparations to the conflict's many victims (Ferstman and Rosenberg 483).

The International Court of Justice's inability to deal effectively with the issue of reparations stemmed directly from its determination that there was no evidence that genocide would have been prevented; if Serbia had taken preventive action, and its findings were therefore limited to the case at hand. Even though, the decision highlights the failure to adequately and effectively address the issue of reparations for victims of the Bosnian and Herzegovina conflict thus far. Families of Srebrenica victims in the Netherlands have filed a lawsuit against the UN and the Dutch government, alleging that they failed to protect civilians. Efforts in Bosnia and Herzegovina to guarantee reparations for victims have been patchy, and the lack of a comprehensive approach to addressing the causes and consequences of victimization has left many victims without recourse (Ferstman and Rosenberg 484).

The signing of the Dayton Peace Agreement in December 1995 brought the conflict to a formal end, and the Agreement provided the framework for the military and civilian implementation of the ceasefire; an agreement for Peace in Bosnia and Herzegovina. The Dayton institutions, particularly the Human Rights Chamber and the Commission for Real

Property Claims of Refugees and Displaced Persons, played critical roles in securing rights for the disenfranchised in the immediate post-war context; Annex 6 of the Agreement provided for the establishment of the Commission on Human Rights, Annex 7 affirmed the right of refugees and displaced persons to have their property restored to them or to be compensated where restitution is not possible (Ferstman and Rosenberg 485).

1.4.5. The Reparations Program in Rwanda

In other nations where genocide were committed, regimes that came after were usually faced with the issue of deciding whether to spend insufficient resources, including international help, to pay individual victims for past suffering or to fund long-lasting development programs that benefit the whole society. Where there are a large number of victims, new governments are often hesitant to pay individual recompense. This was without any doubt the situation in Rwanda.

In the post-genocide period, over 10,000 community courts with over 100,000 lay judges have tried over one million genocide cases in Rwanda, making it the boldest and participatory transitional justice mechanism ever attempted. Following the genocide, the Rwandan government advocated for the arrest and prosecution of tens of thousands of low-level genocide suspects, going further than any other successor regime. As a result, the government and international donors spent millions of dollars on detainees and genocide trials, money that could have been used to compensate the estimated 282,000 needy survivors (Waldorf 515).

Hearings typically begin with a minute of silence to remember genocide victims, followed by the reading of the procedural rules. A presiding judge frequently invited those who had not yet confessed their crimes to do so before calling the first case. By forcing confessed criminals to make public apologies and reveal the places of their victims' remains, the 2004 law sought to increase symbolic reparations to survivors. In reality, apologies have remained essentially requests for atonement. The Rwandan Government created unreasonably high

expectations when it promised that law courts would foster reconciliation. Reconciliation is too much to ask of people, especially survivors, a mere 14 years after genocide. Survivors often express understandable reluctance to forgive during lawsuit hearings (Waldorf 536).

1.4.6. Compensation for the Victims of Chemical Warfare in Iraq and Iran

Despite the fact that the Iran-Iraq War was over two decades ago, victims of Iraqi chemical warfare in Iran and Kurdistan continue to seek justice. They recently filed compensation claims in the criminal case against Frans Van Anraat, a Dutch war criminal and businessman, who sold massive amounts of raw materials for the manufacturing of chemical weapons to Iraq to be used against Iran under the rule of Saddam Hussein.

Civilians and combatants have seemed to be the most complicated issues to resolve among civilians, combatants, prisoners of war, and civilian detainees. One reason for this appears to be that they appear to allow for a less clear definition of conduct that violates international humanitarian law. Given this, the question arises as to whether there is any reason to believe that compensation for violations of the law on conduct of hostilities (Hague Law) would differ from compensation for violations of the rules protecting persons in a party's power (Geneva Law) or international humanitarian law in general.

Article 3 of the fourth Hague Convention on the Respect for the Laws and Customs of War on Land, adopted in 1907, was the first to establish the principle of compensation, albeit for states rather than individuals. Besides the International Criminal Court (ICC) which has the authority to award victims reparations. It could go after a convicted person directly. The International Criminal Court's Statute is the first expression of victims' right to reparations (Zegveld 371).

However, the Dutch Court was concerned that a large number of victims would file claims in the Van Anraat case; Iraq's chemical warfare has stated a large number of lives: 20,000 in Iraq and 100,000 in Iran. The Court's apprehensions were understandable. The Dutch legal

system is unprepared to handle mass lawsuits. There are no class actions in Dutch law; a person who has been harmed can join as a party to the criminal proceedings for the purpose of claiming civil damages, according to Article 51 of the Code of Criminal Procedure (Zegveld 372).

As a result, each individual must begin their own case. Usually, the victims must prove the extent of their injuries and losses. However, the burden of proof borne by the victims in this case turned out to be relatively light for several reasons. First and foremost, the victims' claims in these types of compensation proceedings in Dutch law that are linked to a criminal case are awarded on the basis of fairness. As a result, victims are not required to provide concrete proof on their harm.

For reparations claims, the (ICC) applies a flexible standard of proof, and if sufficient evidence is lacking, the (ICC) must take steps to fill the evidence gap; because their injuries were not contested, they were still clearly visible to a large extent. The victims did not have a great difficulty proving the extent of their injuries because, at the time of the chemical attacks, the Dutch criminal code only allowed victims to receive €670 per person. Of course, given their injuries, this is a symbolic amount; it should be mentioned that collective compensation is not offered for in Dutch law. This emergence in compensation claims linked to criminal proceedings reflects the international human rights and humanitarian law community's growing emphasis on the role of victims (Zegveld 378-79).

After highlighting this significant development in international criminal law for victim compensation, it is worth recalling that the victims of Iraqi chemical warfare lost their case in the Dutch court of appeal. The case is currently pending in the Netherlands' Supreme Court. The court to which these claims were brought is first and foremost a court to try the accused, not a court to award damages. As a result, it is ill-equipped to deal with complicated civil law issues. As a matter of fact, criminal proceedings provide a way out of some of the difficulties

that victims are likely to face when seeking compensation for violations of the law of hostilities, but serious obstacles remain. As a result, the future success of these claims is ambiguous.

Chapter Two

Reparations for Historic Wrongs in the United States

Much of the literature on the question of reparations in the United States is motivated by the assumption that two groups have deeply suffered in the United States than most others: African Americans and American Indians. Whereas new immigrant groups uplift socially after a few generations, blacks and Native Americans remain short of wealth compared to other racial or ethnic groups. The extent of unfairness that each minority has historically endured is what distinguishes them. Even their current social and economic disadvantages correspond with slavery and Indian land removal. As a result, an entire area of political studies has appeared around the topic of what to do about the historical injustices faced by these two groups.

Scholars of historical injustices frequently advocate for reparations based on past wrongs. Historians of injustice frequently argue reparations on the grounds that modern individuals owe a substantial obligation to groups that are disadvantaged now as a result of previous misdeeds. As it has been noted earlier, calls for apologies and financial compensation are not new, reparations for a state's treatment of its inhabitants are.

Until Nazi Germany perpetrated a large-scale extermination, the thought of a state apologizing for, let alone paying for, its crimes toward its own inhabitants was nearly unimaginable. When millions of Jews were murdered during the Holocaust, the world was faced, for the first time, with how to make nations pay money to atone for a historical atrocity. "There was a sense that the Germans had done something terribly wrong and needed to make apologies" (67), says historian John Torpey, a professor at City University of New York's Graduate Center and the author of *Making Whole What Has Been Smashed: On Reparations Politics*.

The return of Germany to the world of developed nations came at a huge price. Since then, the United States has followed suit with minorities that suffered from historic injustices. However, while it has made restitution to some of the communities it has mistreated by means of unfair treaties, coups, and violent experiments, others who are still suffering the consequences of past wrongs are still waiting, like the African Americans.

In the United States, the first reparations program was proposed by Congress in 1946 in order to redress a wide range of claims pressed by Indian tribes, including violations of treaties for which a judicial remedy was denied, and the loss of lands under treaties signed under the use of force (Newton 453). More than forty years passed before Congress authorized reparations for Japanese Americans who had been interned during World War II, but then Congress passed three more programs in rapid succession (Trejo). A movement seeking reparations for black slavery began in the late 1960s but dwindled before enjoying a revival in the late 1990s (Lewin).

2.1. Native Americans Reparations

Native Americans have been the target of extermination, assimilation, or otherwise elimination from the American hemisphere for over 500 years. Their deprivation is unparalleled in American history. No other group in the United States has been subjected to the dominant society's cruel, harsh, and deceptive exploits for such a long time. Slavery, battles, removal, treaty deception, hunger, disease, genocide, forced sterilization, and cultural genocide are just a few of the means employed by the Euro/American effort to eradicate the aboriginal peoples and their cultures in the American hemisphere.

Since the colonial period in the United States, amoral tactics aimed towards the American Indians have been the norm. According to a more recent study, the population of American Indians in what is now the United States is above 5 million. Between the sixteenth and nineteenth centuries, about 15 million African slaves were imported to the Americas, while

sickness, killing, slavery, warfare, and cultural genocide (removal and placement in concentration camps) devastated the American Indian population.

During the 1700s, about half of all African slaves, or 7 million, were transported to the Americas. Indian slavery was not uncommon throughout the colonial period, contrary to popular opinion. It was essential in colonial trade as well as the annihilation of most of the southeastern tribes. Disease and slaughter decimated the hundreds of tribes, leaving just the Cherokee, Choctaw, Chickasaw, Creek, and Seminole, who became known as the “Five Civilized Tribes”. Other European colonial powers, particularly the French and Spanish, forced enslaved Indians to battle (French 241-42).

The Indian slave trade, according to Gary Nash, affected all of the colonies and was notably important to the growth of Charleston, South Carolina. The Carolina settlement, for example, had 5,300 Europeans and 4,300 slaves in 1708, with 1,400 of them being Indian slaves. All of the atrocities historically associated with the worst images of slavery were present in the Indian slave trade, including beatings, deaths, and tribal and family separation. Separating families became standard practice, with Indian males being sent to the northern colonies while women and children remained in the south (23-24).

This policy was defended on the grounds that it reduced Indian male insurrection. The Spanish used Indian slaves in the western American colonies in the same way that the British did in the east. In the east, along with deer skins and furs, Indian slaves became a profitable component of trade; in the west, the Catholic Church enslaved American Indians to build and sustain missions. Following the Spanish Crown’s huge land transfers to colonists, American Indians became landless peasants.

Slavery of American Indians was, in short, an essential aspect of the colonial economy. United States government continued to control the fate of the estimated 600,000 American Indians who survived the colonial period through a trail of broken treaties and harsh policies,

all of which were motivated by the ethnocentric ideology of “manifest destiny”. The US negotiated 394 treaties with Indian tribes between 1778 and 1868 Executive orders and statutes issued by the federal, state, and local governments. Executive orders and statutes from the federal, state, and municipal levels were also utilized to maintain control and exploitation of American Indians (French 242). The justification for displaying a brutal policy towards the American Indian was manifest destiny.

World War II sparked a movement to right one of America’s historical wrongs: the treatment of Native Americans over centuries of conquest and colonization. Native Americans enlisted in disproportionately large numbers during World War II: 44,000, or nearly 13 percent of the total Native American population at the time, served as code talkers who stumped the enemy with their tribal languages and brave service members who fought in the European and Pacific theaters of war (Erin).

After WWII, there was a growing movement to compensate tribes for the unjust seizure of the islands. Congress established the Indian Claims Commission in 1946 to hear historic grievances and compensate tribes for lost territories. It conducted extensive historical research and ultimately awarded approximately \$1.3 billion to 176 tribes and bands. The money was mostly given to organizations, which then distributed it to their members.

According to historians Michael Lieder and Jake Page, money was distributed per capita to some tribes whose members did not live on a reservation. For those who did live on reservations, the funds were frequently designated for tribal projects. However, the actual funds averaged out to about \$1,000 per person of Native American ancestry, and the majority of the money was placed in trust accounts held by the United States government, which has been accused of mismanagement over the years (Erin). Gambling has had a greater positive impact on the quality of life on reservations than the Indian Claims Commission Act,” Lieder and Page write. It took decades for a formal apology to be issued. In 2009 The United States

apologized for the “many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States” (Erin).

Jeffrey Ostler has spent the better part of three decades researching and teaching about the American frontier’s thorny legacies. His conclusion: the wars waged by the US government against Native Americans from the 1600s to the 1900s were fundamentally different from the country’s other contemporaneous conflicts.” It was genocidal war against Native nations and communities” he claims. The Beekman Professor of Northwest and Pacific History at the University of Oregon believes that main stream political and historical discourses in the United States have frequently obscured this deadly distinction in their descriptions of conflicts with Native Americans (stone).

Surviving Genocide: Native Nations and the United States from the American Revolution to Bleeding Kansas, his new book, is a thorough and unflinching examination of the evidence. Ostler concludes from his extensive survey of tribal histories that the massacres demonstrated a conscious genocidal impulse. It was the first in a planned two-volume series, was published in 2019 and received wide spread acclaim in the academic field, as well as notices from the popular press. This book according to the New York Review of Books; “sets a bar from which subsequent scholarship and teaching cannot retreat” (stone).

2.1.1. The Current Status of Indian Policies in the United States of America

As a result of the broader dissatisfaction in America over the Vietnam War in the 1960s and 1970s, Indian radicalism evolved. The American Indian Movement (AIM) sought to put an end to “white colonialism”. The brutal battles between AIM and the federal government on the Pine Ridge Reservation at Wounded Knee, the site of the massacre in 1890, followed the November 1972 “Trail of Broken Treaties” march on Washington, D.C., a year later. Leonard Peltier, a Turtle Mountain Chippewa, is serving a life term in federal prison for the murder of

two FBI agents. Many believe he was falsely accused and is a federal government political prisoner (French 348).

While the US frequently accuses other governments for violating civil and human rights, it has a long history of doing so when dealing with the indigenous peoples of their hemisphere. The federal government has not been adequately embarrassed into giving significant reparations as a result of these policies and practices of killing, enslavement, wars, physical and cultural genocide (ethnic cleansing), death marches, and concentration camps. Even an apology from the US for these tactics is a long way off.

This does not envisage well for future government interactions with Indians, or for the legitimacy of the United States in passing judgment on other civilizations for similar actions. Native Americans across what is now the United States have been fighting for their land and culture ever since the first Europeans invaded the country in Florida in 1513. For those living today, reparations come in many forms, as that which was taken away from them over the years varies as well.

2.2. The Japanese Americans Internment Reparations Case

Japanese immigrants first came to the United States beginning in the 1880s, seeking Economic freedom and opportunity. When the National Origins Act was passed by Congress in 1924, a quota system was established for certain immigrant groups, but further immigration from Japan was banned. The congressional action reflected public opinion, especially on the West Coast, where the industrious new comers had aroused racial animosity as well as economic envy.

Most of the original Settlers, the Issei, and their American-born children, the Nisei, lost contact with their homeland but were unable to assimilate into a country that was prejudiced against them because of their “otherness”. Most Japanese Americans, who lived in Los

Angeles, San Francisco, and Seattle or in rural farming towns, withdrew in ward, despised by their neighbors. Nisei are a Japanese ethnic group (Taylor 165).

English was their major language and they were Americanized through public school. Despite their parents' efforts to provide Japanese language training in after-school sessions, many spoke only a few words of the Japanese language. Some of the first generation went to Japan to study, and others sent their children, known as the Kibei, to study there. They were able to keep their roots there so they wouldn't lose them. However, the majority of people progressively lost touch with their loved ones (Taylor 166).

Racism was a major factor in anti-Japanese sentiment. The Issei, the final group of immigrants discriminated against in this way, were refused the right to naturalization. They were also denied the opportunity to purchase land in 1913 because of their resident alien status, though many managed to get around the legislation by putting the property in the names of their citizen children. White Americans, for the most part, they were too different and inassimilable, therefore they had little contact with them. Japanese Americans would have fit in well with the rest of the country's culture; if it wasn't for the rising anti-Japanese sentiment.

Fears of a "yellow peril" had been manifest ever since Japan defeated Russia in 1905, and hostilities increased with diplomatic clashes after World War I. In 1920, the US navy began preparing for war against Japan, assuming an eventual clash in the Pacific. Once the Pacific war did begin with Japan's attack on Manchuria in 1931, the public's opinion became even more hostile toward a nation it saw as aggressive and barbaric. The stage was set for Pearl Harbor (Taylor 167).

The United States Navy began planning for war against Japan in the 1920s, envisioning a Pacific confrontation. Once the public opinion grew even more hostile against a country seen as violent and barbaric; the stage was laid for the attack on Pearl Harbor. When Pearl Harbor

was bombed on December 7, 1941, the Issei feared the worst but felt that their children would be protected because of their Japanese citizenship (Taylor 167).

Following Japan's attack on Pearl Harbor on December 7, 1941, the United States government interned over 110,000 Japanese Americans, but Fred Korematsu, Minoru Yasui, and Gordon Hirabayashi defied orders (Kelly). These brave men were arrested and imprisoned for refusing to do what they were told. They eventually took their cases to the Supreme Court, where they were defeated.

Although the Supreme Court ruled in 1954 that the "separate but equal" policy violated the Constitution, effectively ending Jim Crow in the South, it proved incredibly shortsighted in case involving Japanese American internment. As a result, Japanese Americans who argued before the Supreme Court that curfews and internment violated their civil rights had to wait until the 1980s for their case to be heard. Following the attack on Pearl Harbor, President Franklin D. Roosevelt, citing an undocumented « military necessity » ordered the removal and incarceration of 120,000 Japanese Americans during World War II solely on the basis of their ancestry.

As Roger Daniels describes movingly, almost all of them obediently obeyed their government and went peacefully to the desolate camps set up for them. Daniels, on the other hand, focuses on four Nisei, second-generation Japanese Americans, who defied the government and their own community leaders by challenging the constitutionality of the government's orders with the help of a handful of lawyers (Kelly). The Supreme Court upheld the 1942 convictions of three men who refused to go willingly—Min Yasui, Gordon Hirabayashi, and Fred Korematsu—in 1943 and 1944. However, a woman, Mitsuye Endo, who went to camp and then filed a writ of habeas corpus, won her case. (United States courts)

Following her two and a half years behind barbed wire, the Supreme Court ordered her release in 1944. During the turmoil of global warfare, neither the cases nor the fate of law-

abiding Japanese attracted much attention; in the postwar decades, they were all but forgotten. Daniels follows the surviving Japanese Americans as they achieve political and legal justice four decades after the war, in an America where attitudes toward race and justice are changing. It discovered no military necessity, but rather “race prejudice, war hysteria, and a failure of political leadership.” It asked Congress in 1982 to apologize and award \$20,000 to each survivor. In 1988, a bill providing that compensation was finally passed and signed into law. There is no way to reverse a Supreme Court decision, but teams of volunteer lawyers, overwhelmingly Sansei—third-generation Japanese Americans—used revelations about evidence suppression by federal attorneys in 1983 to persuade lower courts to overturn Hirabayashi and Korematsu’s convictions (United States courts).

Daniels traces the continuing shifts in attitudes toward the wartime cases since the 1980s and provides a sobering account that resonates with contemporary issues of national security and individual freedom (United States courts). Focuses on four Supreme Court cases involving the Japanese Americans, who were forcibly detained and relocated to internment camps during World War II; despite the absence of any charges or trials to address the validity of their implied guilt. Daniels, a well-known expert on the subject, reminds that the Constitution promises much but does not always deliver when the country is in crisis (United States courts).

2.3. The United States Extended Help to the Jews Reparations

One notable example of reparations is the Holocaust reparations paid by West Germany after World War II. Although the United States and other countries did pressure Germany to pay reparations to Holocaust victims, and although the West Germany reparations can be traced to earlier reparations programs imposed from 1947 to 1949 by the occupying powers, the Holocaust case differs from the standard cases of forced wartime reparations (Schwerin 479).

The Holocaust reparations did not go to the victorious powers, and the program emerged more or less autonomously from the German political system during the 1950s and 1960s, when Germany was no longer under imminent threat of further physical or economic destruction. German leaders such as Konrad Adenauer believed that Holocaust reparations would persuade the international community that West Germany had dropped its Nazi past and could be trusted with political autonomy (Schwerin 513).

Not only has the US government brought significant support for Holocaust reparations, but also for Holocaust survivors. Indeed, it was the US that established the structure for Holocaust compensation and property restoration. The leadership of the United States has aided Holocaust survivors in receiving some moral respect for their unfathomable losses. Compensation and reparation for tens of billions of dollars even during World War II, and for almost eight decades before now, the United States has exploited its worldwide influence and leadership to give a sense of security.

As the United States Department of State recently said that the United States remains a recognized world leader on Holocaust-era restitution. The agreements were reached thanks to the leadership and support of the United States administration. To date, there have been notable restitution deals. Agreements with third parties, for example, fall within this category. Germany (slave and forced labor, insurance, etc.), and Switzerland (dormant bank accounts) Austria (slave and forced labor, insurance), and Germany (slave and forced labor); these include, for example, agreements with Settlements in a number of Central and Eastern European countries (World Jewish Restitution Organization 8).

The Solicitor General's Amicus brief similarly indicates that the:

United States deplores the atrocities committed against victims of the Nazi regime and supports efforts to provide Victims with remedies for the wrongs they suffered. Since the end of World War II, the United States has worked in numerous ways to

achieve some measure of justice for the victims, and with the United States' encouragement and facilitation, the German government has provided significant relief to compensate Holocaust survivors and other victims of the Nazi regime. (8)

The United States has not backed down in the hopes of Germany taking the lead, nor has it delegated this obligation to other nations or organizations. Instead the US took the initiative right from the start to help recognize and restore some of what had been lost during the Holocaust.

2.4. Compensation for the Victims of September 11

Though, paying into the fund that assists harmed workers at the World Trade Centre or the Pentagon during the 9/11 attacks has a troubled past in Congress, President Donald Trump signed a bill reauthorizing the September 11th Victim Compensation Fund, which pays out claims for deaths and illnesses due to the attack, putting an end to the fight. During the bill signing ceremony, Trump said that his nation owes each of them a profound debt that no words or deeds will ever repay. But they can and they will keep their nation's promise to them. The bill authorizes \$10.2 billion for the fund over the following ten years, followed by billions more until 2090, thereby covering the surviving 9/11 rescuers for the rest of their lives (Kim). This was a significant victory for first responders, who have fought for permanent financing for more than a decade.

The Never Forget the Heroes Act, which would continue the fund until 2090, was unanimously approved by the committee. On July 12, the entire House of Representatives passed the bill 402-12, placing Senate Republicans under pressure. Despite opposition from Senators Rand Paul (R-KY) and Mike Lee (R-UT) over fiscal concerns, the Senate passed the bill 97-2. The fund's financial difficulties will be relieved now that the bill has been signed into law and first responders and their families won't have to worry about their benefits being

cut or whether they will be reimbursed for the harm they experienced while serving the country (Kim).

Many 9/11 first responders suffer from cancer and respiratory diseases. From 2001 to 2004, the original September 11th Victim Compensation Fund compensated those who were physically harmed or the families of those died as a result of the terrorist attacks on September 11, 2001. The fund was reactivated in 2011 as part of the James Zadroga 9/11 Health and Compensation Act of 2010, as first responders continued to become sick and die years after the attacks (Kim). First responders who developed a disease as a result of their service in the aftermath of 9/11 may be eligible for compensation.

More than 70,000 people have enrolled in the program after tens of thousands of first responders worked at Ground Zero. More than 32,000 of them have had respiratory or digestive tract ailments, with 705 of them dying as a result. Nearly 9,000 first responders have been diagnosed with cancer, with 600 of them dying. Experts predict that the number of deaths from 9/11 diseases will outnumber the almost 3,000 persons who died on September 11, 2001, if current trends continue (Kim).

However, obtaining recompense for those victims, who may die decades later, took years and is now in jeopardy due to financial constraints. The Remember 9/11 Health Act was presented by Rep. Carolyn Maloney (D-NY) in 2005, however it was never voted on. Senate Republicans objected to the idea of a permanent compensation fund with an initial budget of \$7.4 billion when the bill was reintroduced. The bill was passed with \$4.2 billion set aside for survivors and a deadline of 2015 for reauthorization (Kim).

That renewal was also a political battle, but the bill was eventually extended for another five years. According to NPR, \$5 billion of the \$7.3 billion fund has been paid out to 21,000 claimants, with 190,000 more claims to be addressed. Significant reductions in pay-outs – 70% less for claims filed after February 2, 2019 — were revealed in February in an effort to

make ends meet. First responders and their supporters are lobbying for a funding extension that would last until 2090. The bill has 323 House cosponsors and 46 Senate cosponsors. Senator Chuck Schumer, the minority leader in the Senate, has stated publicly that the extension must be passed as quickly as possible. When asked about the efforts to prolong the fund a day after the House Judiciary Committee cleared the bill, McConnell said he was ignorant of the situation but would handle it “compassionately” (Kim).

2.5. Black Americans Remain the Exception

Throughout the 17th and 18th centuries people were kidnapped from the continent of Africa, forced into slavery in the American colonies and exploited to work as indentured servants and labor in the production of crops. Despite the success of the Civil rights Act of 1964 which held racial segregation purported to be “separate but equal”, the United States has yet to tackle reparations for another glaring injustice of the enslavement of Africans from the earliest days of colonization to the passage of the 13th Amendment in 1865, and the long period of economic inequality and civil rights violations that followed. Though the US apologized for slavery and segregation in 2009, it has never issued redress to the descendants of enslaved people despite their persistent demands via their reparations movement.

When it came to slavery the United States has proven unwilling to grapple with the enormity of its injustice, and of those that followed during Jim Crow segregation and the financial and social inequality faced by black Americans. In a recent Pew Research Center survey, most Americans said that slavery’s legacy still affects black Americans to this day. This enduring harm has fueled an overwhelming public demand for reparations.

To round up, it is important to note that the concept of redress, a system of reparations for flagrant injustices, is not new to the United States. Native Americans have received land and billions of dollars in compensation for being forcibly removed from their native lands. For Japanese Americans who were interned during WWII, \$1.5 billion was paid. Furthermore, the

United States, through the Marshall Plan, assisted in ensuring that Jews received reparations for the Holocaust, including various investments over time.

Black Americans are the only group that has not received reparations for state-sanctioned racial discrimination, whereas slavery allowed some white families to amass enormous wealth. It is also worth noting that American slavery was particularly brutal. Approximately 15% of the enslaved transported from Western Africa died during the journey. For trivial infractions, the enslaved were routinely beaten and lynched. Slavery also disrupted families, as one in every three marriages was broken up and one in every five children was separated from their parents. The case for reparations can be made on economic, social, and moral grounds.

Over the past decades, calls for black reparations were faced by increasing political conservatism. This led to strong opposition by some white and non-white Americans to affirmative action efforts conceived to assist blacks in America. Many black Americans, deceived by the absence of progress and the reduction of affirmative action, view reparations for slavery and its legacy a better way to remedy for human and civil rights offences than affirmative action.

This view better explains why the idea of reparations, very appreciated by black working class Americans, is more and more backed by black professionals as well as intellectuals. As it will be demonstrated in following paragraphs, the United States has had numerous opportunities to atone for slavery, each one a missed opportunity to make the American Dream a reality, but has yet to take significant action.

Chapter Three

The History and Contemporary Claims of the African-American Reparations Movement

Slavery was abolished more than 150 years ago, but there are still questions related to the matter of equality in the United States between minorities and in particular between whites and blacks. Though they have constantly fought for equality in the American society, African Americans still encounter lack of equality in their daily lives. They still face racial issues in education, housing, employment, unequal salaries, and, on a broader scale, police violence.

The history of racial injustice against African Americans is extensive and involves bondage, Jim Crow laws, lynching, segregation, and police cruelty (Blackmon 128). The impacts are still evident in housing and economic inequalities (Darity Jr. et al.), black-white achievement gaps (Carnevale and Strohl), persistent segregation in spaces (Rothstein 67), overrepresentation of African Americans in prison (Alexander 94), and higher percentages of illness and death (Largent 716-17).

In the post-slavery period, extensive reparations were frequently advanced as a means to compensate for this painful history and as a prerequisite to found a more fair and impartial society (Hassan and Healy). In the long run, the reparations' issue led to a controversy about whether or not African Americans should be repaired or compensated for the sufferings from racial injustices within the American white-dominated society.

Indeed, to face the social, political and economic implications of the impact of racism practiced for centuries, many activists and movements raised their voices and boldly called for social reforms, redress, and reparations, they believe they are legally entitled to, as a way of compensation to all kinds of human rights' violations, racial discriminations, repression and tyranny, mainly for slaves and/or their descendants. Despite their persistent calls,

however, African Americans have been denied reparations, while within the same society other minorities and social groups benefited from reparations.

Though the idea of reparations is not new to the United States, Washington's policymakers have long been ambivalent in their response to the history of racial injustices committed against African Americans (Ladisch and Rocatello). For instance, Native Americans were compensated for having been deprived from their land reserves. The US compensated Japanese Americans for having been interned during the Second World War. In addition, the US government helped the Jews to obtain reparations for the Holocaust. Black Americans are the only minority that has not benefited from reparations for the adverse effects of slavery and the racial discrimination that ensued.

So, if the US is already familiar with the concept of reparations why is the case different for African Americans? It is in this logic that the present research work examines African Americans' demands for racial injustice reparations. To do so, this study delves into the history and evolution as well as important achievements, and future prospects of this movement of reparations for African Americans.

3.1. Historical Background to the Development of the Reparations Movement

Even though it has a current dimension, the Black Redress Movement has a long and illustrious history in the United States. Redress claims were filed decades before slavery was abolished. Since enslavement, each generation of African-Americans has reasserted their rights claim. Following the ratification of the Thirteenth Amendment in 1865, and even earlier, reparations proponents have used the guilt of slavery to urge white American policymakers into paying for the wrong deeds of their ancestors.

Demands for compensation for individuals who suffered as a result of slavery and its aftermath are becoming increasingly common today. Although reparations have been paid in different forms in both ancient and modern times, the concept of reparations for black

Americans was debated for and against throughout the late nineteenth and early twentieth century.

The notion of reparations, the idea of having the US government recognize its guilt towards blacks and consent for a material settlement of past wrongs, has an extensive history within black political nationalism and academic work. For African American activists from the times of Frederick Douglass to Martin Luther King, well-known organizations from Garvey's Universal Negro Improvement Association (UNIA) to Pan African Congress organized in the 1990s, political ideas from those of Du Bois to Malcolm X, the idea of reparations has been a constant demand within the black rhetoric.

Despite the fact that the Civil and post-Civil War period is commonly recognized as the era when the first calls for reparations to blacks emerged, Art Alcausin Hall noted that, earlier in 1774, Thomas Paine proclaimed one of the first calls for African American reparations (17-18). Similarly, Gary B. Nash noted that, Richard Allen, one of Philadelphia's most outstanding black ministers, played a key role in the endorsement of a resolution in 1830, which included the following:

Whereas our ancestors were the first successful cultivators of the wilds of America... we their descendants feel ourselves entitled to participate in the blessings of her luxuriant soil which their blood and sweat manured....[A]ny measure...having the tendency to banish us from her bosom, would not only be cruel, but in direct violation of those principles which have been the boast of the republic. (147-48)

In the nineteenth century and in 1865 exactly, William Tecumseh Sherman, a General in the Union army during the American Civil War, signed Special Field Order N^o. 15, in which he pledged 40 acres and a mule (Winbush 321). Since that time, the statement 'forty acres and a mule' has emphatically become the uniting call for historical and contemporary reparations movements. As Charles J. Ogletree reminded, the movement traces back "at least as far as the

unkept promise in 1864 of '40 acres and a mule' to freed slaves, which acknowledged our country's debt to the newly emancipated" (9).

In the same year, the Freedman's Bureau Act gave birth to the Bureau of Freedman's Affairs, which allowed land legally appropriated from Civil War secessionists to be sold and leased to former slaves. The Act was also mandated to deal with measures of racial discrimination against blacks and education, however, the authorization for the Act ended in 1870 (Chisolm 679). Therefore, Sherman's phrase '40 acres and a mule' did not only begin the contentious topic of reparations that still prevails today, but also gave birth to idea that the US government is in debt to black Americans.

In 1866, Congress approved a bill granting former slaves small payments and a pension, but this measure was defeated by President Andrew Johnson, who forbade all sorts of confiscation and land redistribution (Torpey 110-11). Nonetheless, throughout the period that followed the end of the Civil War, African Americans ceaselessly asked for reparations both for slavery and for harms they endured under the Jim Crow rule.

In 1867, Thaddeus Stevens, Pennsylvania's Republican Representative, proposed in a detailed resolution introduced to Congress, that all public lands in the former confederate states be appropriated by the US federal government. The seized lands had to be distributed to the slaves who have been freed by the 13th amendment of the Constitution, in particular those who lived in the so-called confederate states (Winbush 325). Through the years, Sherman's order and Stevens' bill turned into a government pledge of reparations to all blacks.

For two decades following 1870, the movement has not achieved any substantial reparations for blacks. From 1890 to 1903, however, the reparations issue has reemerged now and then. For instance, nine bills intended to offer pensions to former slaves were sent to Congress, but despite substantial support of influential congressmen, the bills never became

law (Hill 7-11). Since that time and until the late 1890s, the movement was not able to secure tangible reparations for blacks.

According to historian Mary F. Berry, a movement, founded in 1896 by a former slave Callie House under the name of the National Ex-Slave Mutual Relief, Bounty and Pension Association (MRB&PA), was the first mass reparations movement led by African Americans for the main objective of obtaining pensions for ex-slaves from the US federal government as reparations for their suffering (*My Face is Black is True* 230-31). By the early twentieth century, however, there were remarkable attempts to demonize the ex-slave pension movement in the national press.

One consequence of the American press demonization of Callie's association was its public depiction as criminal and without any positive or productive effect (Berry, "Reparations for Freedom, ... 219-30). Despite this adversity, Callie House continued its fight for reparations and initiated in 1915 a lawsuit for black reparations and was backed by another distinguished and ardent anti-slavery supporter, Frederick Douglass (Fullinwider 1-8).

Almost all black activist associations, from the Garvey's UNIA in the 1920s through the Black Panther, Republic of New Africa, and Nation of Islam in the three decades of the twentieth century, requested reparations (Allen 5-6). In its program, the Nation of Islam demanded land as reparations, whereas the Black Panther movement integrated reparations within its ten point program and asked for money payments for continuing harm done to African Americans. Point 3 of their program says:

We want an end to the robbery by the white man of our Black Community. We believe that this racist government has robbed us and now we are demanding the overdue debt of forty acres and two mules. Forty acres and two mules was promised 100 years ago as restitution for slave labor and mass murder of Black people. We

will accept the payment as currency which will be distributed to our many communities. (“Black Panther Party for Self-Defense 10 Point Program...”)

The Black Panther movement also linked the calls for reparations to self-determination for African Americans (Kelley 85).

W. E. B. DuBois, one of the most outstanding African American activists of the first half of the twentieth century, spoke in favor of repairing the severity of the damage done to blacks. In addition to having well documented slavery in his research work, he was also one of the first black scholars who employed the word reparations. Towards this end, he examined the historic, political and economic component for African Americans to equip themselves with knowledge for an eventual demand for reparations (Lewis 652-54).

The feeling that led nationalist and black power organizations to ask for reparations was also widespread among individual black American activists. During the Civil Rights movement of the 1960s, black power activists such Marcus Garvey and Malcolm X advocated land and money payments to descendants of slaves, but and their demands could not materialize because at that time they were regarded as less influential advocates of the black political movement (Bunch).

In his book, *Racist America: Roots, Current Realities, and Future Reparations*, Joe R. Feagin argued that the Reverend Martin Luther King, Jr. had called for compensation for slavery, segregation, and discrimination, nonetheless this subject was not a focal point of the movement he led (223). At the 1963 March of Washington, King also talked of the unpaid debt owed to Black America (King, Jr. 218). He thought that the US government had to grant reparations as a perquisite to liberate itself from the sins of its past (Cook 959).

Among the organizations that actively took part in the reparations movement was the National Conference of Black Lawyers (NCBL), also known as the legal arm of the black liberation movement. The association, which was formed in 1968 to extend legal aid to black

activists, depicted the reparations movement as an effort “to repair a people for significant harm that was done to them and particularly done to them by a government” (Hall 11-12).

Similarly, James Forman, a former leader of the Student Nonviolent Coordinating Committee (SNCC), and his followers persuasively evoked the demand for reparations in their 1969 march into the Riverside Church in New York, where they proclaimed the Black Manifesto. The latter called for the payment of “\$500 million as a beginning of the reparations due us as people who have been exploited and degraded, brutalized, killed and persecuted” (qtd. in Robinson, *What America Owes to...* 202).

The issue of reparations for blacks, or America’s debt to African Americans, came to the fore again, but only briefly, during the 1972 national meeting of the National Black Political Convention. With an ambitious agenda, the convention gathered many people with different political ideologies. Its objective was to put forward a political program of action for African Americans from 1972 and beyond (Bittker 18).

3.2. The Contemporary Black Reparations Movement

The present movement for reparations surfaced as a consequence of the 1987 US Congress vote to grant reparations to Japanese Americans held in concentration camps during the World War II. As a result, the Civil Liberties Act of 1988 was signed by President Ronald Reagan. This Act did not only apologize to the American citizens of Japanese origins but it also authorized cash payments to those still alive when the legislation was enacted (Feagin 138). Advocates of black reparations based their activism on the Civil Liberties Act of 1988 to justify the revival of their request for reparations for blacks as well.

Founded in 1987, the National Coalition of Blacks for Reparations (N’COBRA) deployed great efforts and based its reparations activism on the 13th and 14th amendments and civil rights statutes. It also often evoked international law principles and standards of equality and self-determination. Jay Parker noted that in 1994 N’COBRA organized a convention that saw

the participation of influential black leaders like Reverend Jesse Jackson and Rosa Parks (74). Joe Feagin similarly observed that in 1994 the Nation of Islam petitioned the United Nations to pressure the United States to grant reparations to African Americans under the cover of international law (179).

Advocates of black reparations argue that the prevailing inequalities between blacks and whites in terms of revenues and wealth are the direct consequence of slavery. They believe that without reparations for slavery, blacks would never achieve economic success. This view was rounded up by Randall Robinson in the following words: “When the black living suffer real and current consequences as a result of wrongs committed by a younger America, then contemporary America must shoulder responsibility for those wrongs until such wrongs have been adequately righted” (America’s Debt to...5).

Despite these persistent calls, African Americans were not restituted for past racial injustices. Opponents to black reparations argue that all former slaves died a long time ago. As a result, the Civil Liberties Act of 1988 cannot be used as a model for reparations to blacks. Proponents, however, oppose this argument by emphasizing that although slavery officially ended in 1865, there is ostensible proof that the practice continued illegally well into the present time (Walters 78).

Accordingly, African Americans have to be compensated for the various harms resulting from the legally imposed system of segregation, which was declared unconstitutional in 1954. In this respect, Boris I. Bittker sums up well this argument: “As slavery receded into the background, it was succeeded by a caste system embodying white supremacy... the life of blacks in America will bear for decades the scars of a century of discrimination” (19).

3.3. Models of Reparations

Reparation discussions focused almost exclusively on two types of reparations, economic redress and apologies by government for past violations to individual and group claimants.

They failed to stress on racial reconciliation as an important part of black reparations. In other words, it is not evident if all reparation proponents perceive racial reconciliation as an aim, despite the fact that racial reconciliation seems to be a very desirable goal for Americans.

The black redress movement is an endeavor by black Americans and others to gain redress from the federal and state governments for stolen capital on behalf of slaves, free blacks, and their descendants, whether through apology or financial capital. The black repatriations movement, which was an action by black Americans to secure restitution from the American government for confiscated capital derived from the hard labor of black slaves, free black and the descendants, was based on two essential premises: compensation, known as the tort model, and apology, known as the atonement model. Both models aim at achieving redress from the government for the harms caused by slavery and Jim Crow to African Americans and their ancestors.

3.3.1. The Tort Model

Opponents and supporters of the black redress movement, whether white or black, frequently approach the problem of slave compensation through the ‘tort model’. The tort model may take the form of law, since it is essentially a lawsuit for slave compensation. Many of the advocates of the tort model base their reasoning on compensation, but some supporters champion punishment or even white guilt.

Despite his admiration for the vast majority of dedicated and impassioned activists and brilliant attorneys who pursue the slave compensation case, Roy Lavon Brooks believes that lawsuits may be a useful weapon in the battle for racial justice and in battling racial injustice. Nonetheless, in his book *Atonement and Forgiveness: A New Model for Reparations*, Brooks uncovers the advantages and drawbacks of two of the most significant reparations’ models. He does not accept the tort model as the most accurate method for slave reparation. As with

any case, the damaging paradigm is far too strong and powerful to bring about racial reconciliation and harmony (142).

The tort model, according to Brooks, is not the adequate model to promote the sort of racial healing and cooperation essential for future race relations. It is also extremely vulnerable to legal abuse, making it impossible for claimants to be really relieved. He stresses once more that the lawsuit, or, more broadly, the tort model, may not be the best way to recompense for servitude. It has inherent limitations that prevent the black reparations movement from presenting a long-term plan. There will be no racial reconciliation unless and until the perpetrator government makes sincere excuses. Compensation alone will not heal the split between the perpetrator and the victim (*Atonement and Forgiveness* 143-44).

3.3.2. The Atonement Model

It goes without saying that the main goal of slave restitution should be racial reconciliation. It is what gives the concept of slave reparations its quality of being morally good or righteous. When Americans support the concept of slave redress, they will back up the idea that of the necessity to travel back in time and place to correct a serious injustice and make more racially consistent both present and future.

Many key factors are missed by Americans who claim that racial reconciliation serves no purpose and that the past should be forgotten. They ignore the fact that the federal government was responsible for a horrible racial catastrophe for which it has never apologized, the fact that the government lacks credibility when it comes to racial issues with the large majority of its black community, and the fact that black Americans are still suffering the damaging effects of slavery and Jim Crow legislation. Those who are against racial reconciliation also overlook the fact that slaves, whose forced labor was essential to America's eventual growth, ought to be acknowledged and remembered alongside other American heroes.

Again, Brooks has offered the most convincing explanations for the Atonement Model. He argues the core belief of the atonement model is that redress should first and foremost be about apologizing. It opposes the tort model's emphasis on compensation and punishment. Prioritizing money before apologies is the moral equivalent of putting the cart before the horse. And, while punishment satisfies the need for vengeance, it does little to promote racial reconciliation in a culture like the American one (142).

Atonement, hence, includes much more than just apologizing. It necessitates redress; that is providing recompense or reparations in proportion to the inflicted cruelty. Reparations are necessary for atonement to make apologies trustworthy. They transform the language of atonement into a meaningful practical reality, so aiding in the rehabilitation of the atrocity's harm and ensuring that the atrocity will not be repeated. Therefore, atonement is defined here as apology with compensation (Brooks 143-44).

3.4. The Arguments for and against Reparations

The question of reparations to past injustices generated a heated debate. Reparations supporters set a comprehensive agenda of justice, which included wholesale wealth transfer. Along the way, they set more modest goals such as showcasing African Americans' contributions to social and economic advancement as well as the injustices they faced. Proponents want to educate the public about these contributions and negative consequences. Wealth redistribution, education, and justice are the objectives.

The abolition of slavery was used to frame the issue of property and race more than a century ago. However, the idea of spending money on society in a form of reparations of course does not work at all. It is described as ineffective in reducing poverty. This is a critical issue; it is a central reparation debate. Will money result equality between different racial? The question of reparations is contentious in large part because it involves the redistribution of wealth and power.

According to several surveys, seventy-five percent of Americans opposed monetary reparations for black Americans whose ancestors were slaves. A similar number of Americans also oppose an apology for slavery (Burke). Opponents of reparations argue that, in addition to being ineffective, they would betray the bedrock American concept of individual responsibility. People should be punished and repaid for crimes they commit, but they are never held accountable for their fathers' sins. Despite the fact that slavery was abolished over 150 years ago, reparations advocates insist on punishing Americans for crimes they did not commit. Reparations are unjust, would fail to address the problems that African-Americans face today, and would tear America apart.

Americans feel that they are where they are now due of their own hard work and intrinsic brilliance, not because of their luck of birth; they believe that the United States is a meritocracy. That is a topic for further discussion, but it appears that the truth lies somewhere in the middle; underpaid black labor and a lack of opportunities allowed whites, including those whose ancestors arrived in the United States after slavery ended, to advance more quickly than they would have otherwise.

Difficult to deny that some privilege has survived to the present day, on the other side, it could be argued that white immigrants were forced to take the least desirable positions, and that wages for such jobs were significantly lowered due to competition from low-paid or, in the case of slavery unpaid black labor. Another reason is that anti-reparationists argue that there is no culpability is because slavery has no continuing effect.

Reparations proponents frequently claim that reparations are needed to compensate for the long-term costs of slavery and Jim Crow. Yet anti-reparationists frequently maintain that the current inequality in wealth is due to black culture, not the legacy of slavery. The idea of spending money on society in a form of reparations of course does not work at all. It is

described as in effective in reducing poverty. This is a critical issue; it is a central reparation debate. Will money result equality between different racial?

The most commonly cited piece of evidence is that the poverty rate among black families has dropped considerably, from nearly half 48.1 percent in 1959 to under a third 32 percent now. And 27.9% in 1969, prior to the Great Depressions massive redistribution plans that the black poverty rate continues to decline. In the year 1999, the rate of the percentage of black families living in poverty was 21.9 percent. For comparison purposes, the in 1959, 15.2 percent of white families were poor, compared to 7.3 percent in 1999.

3.4.1. Contemporary Resistance to Reparations

In June 1997, several white congressmen supported a bill calling for an apology for the enslavement of black Americans. The purpose of the bill was not to repair the prevailing injustice resulting from slavery, but rather to pave the way for reconciliation process. It was similar to the apology sent to Japanese-Americans interned during War World. However, the bill was totally condemned even by black Americans. Apology for slavery was divisive (“Speaker Scoffs at Proposal...”).

Apology supporters argued that "an apology could open floodgates for dealing with issues like reparations, ...[and] that is necessary if the country is to move toward closure (Davies 23). Although the proposed apology was viewed as a step toward racial reconciliation, many officials, including blacks, failed to appreciate that true reconciliation can only occur once society has faced its past and accepted responsibility for it.

To cite an example of black opposition to reparations, one may refer to the comments of Condoleeza Rice, President Bush's National Security Advisor. During the 2001 UN World Conference against Racism, Rice was asked for her opinion on black reparations for slavery and her answer was as follows: "Slavery is more than 150 years in the past, and, of course,

there is a continuing stain. I have said very often, slavery was America's birth defect. It was there from the beginning. But we have to turn now to the present and to the future" (Rice)

Even President Clinton was against the proposed apology (Miller 10). White House Press Secretary, Michael McCurry, declared: "The President has ... put that issue aside [because] ... he believes we should really start the kind of discussion ... that's aimed at bringing Americans together. Instead, the President called on the nation to engage in a conversation about race (Dworkin 173). In announcing the creation of the President's Advisory Board on Race, President Clinton announced:

I want this panel to help educate Americans about the facts surrounding issues of race, to promote a dialogue in every community in the land to confront and work through these issues, to recruit and encourage leadership at all levels to help breach racial divides and to find, develop and recommend how to implement concrete solutions to our problems, solutions that will involve all of us in government, business, communities and as individualized citizens. (Anderson 282)

The government's role, according to the President, was to ease public discussions, leaving the work of racial reconciliation up to the common American.

To summarize, the relationship between slavery and Jim Crow should be determined, as well as the impact of their legacy on contemporary black community. If the disparity in economic accomplishment is due to causes inside the black community rather than the legacy of slavery and Jim Crow and those reasons are not attributable to slavery and Jim Crow, then reparations should not be paid.

3.5. The Constitutionality of Black Reparations

An important question must be raised here: Is it constitutionally feasible for the federal government to construct and fund a reparations scheme whose benefits would be limited to black Americans only? Distributing government benefits to a small portion of the population

is standard practice. Thus, it is assumed that poor people but not rich people receive welfare payments, that veterans but not nonveterans are eligible to benefits, that homeowners but not tenants are eligible for home-mortgage guarantees and those farmers but not city dwellers are eligible for farm price supports and agricultural extension services. Furthermore, in a previous era, the borders defined by Congress or state legislatures in the distribution of benefits were practically not subject to court scrutiny; reflecting the common cliché that beggars cannot be choosers, it was held that no one had a constitutional right to public obscene wealth.

This response is no longer acceptable, and courts are now more willing to review legislative qualifications on the complaint of an aggrieved person to see if his or her exclusion is so unreasonable as to violate the Fifth Amendment's guarantee of "due process of law" or the Fourteenth Amendment's guarantee of "equal protection of the laws". However, in these judicial incursions, the courts recognize that legislative bodies have an extraordinarily broad range of discretion, and legislative decision is rarely reversed. This would not apply to legislation that make differences based on race, color, or religion. This supposition was not accomplished, as the Supreme Court has frequently stated in recent years that legislation for the ultimate benefit of one racial group would typically violate the Fourteenth Amendment and, by extension, the Fifth Amendment, even if prompted by a noble intent.

Slavery and Jim Crow are undeniably evil forms of national discrimination against black Americans, discrimination as official federal policy, not just social prejudice. Congress can choose to enact legislation for blacks similar to the Civil Liberties Act of 1988; there will definitely be ample evidence of this in the historical record. Given the refusal of the courts to establish their own monetary remedies, legislation may be the only viable alternative for continuing.

The extraordinary consistency and balance between constitutional and statutory principles should not be neglected. Both are group-oriented rather than individual-oriented, and, more

crucially, both strive to address the aftereffects of earlier acts of prejudice. It then appears to give the required legal basis for determining the priority question. However, as is often the case, a court settlement of that and other legal issues concerning black reparations may hinge on public policy reasons.

3.6. The Persistence of Durable Racial Inequality

The true question is whether the United States has made headway in reducing racial unlikeness. Many important studies of modern racial disparity recognize that progress has been made, and that a solid black middle class has been created. There is no doubt about the rise of the black middle class, but focusing on it amounts to celebrating economic gains while disregarding the huge and persistent disparities in economic and social well-being between blacks and whites. Since the post–World War II economic boom and the civil rights revolution, there has been an ongoing huge difference between blacks and whites in family income, wages, and wealth.

Over the last fifty-five years, black families have definitely profited relative to whites, but the absolute economic difference between them has worsened. In 2001, black families' real median income was 62 percent of that of whites, only ten points higher than in 1947, when the ratio was 52 percent. However, during the same time period, the absolute real median income disparity more than doubled, growing from \$10,386 to \$20,469 (Martin and Yaquinto 82-83).

A more realistic figure would be to compare black family income to that of non-Hispanic whites, which is 58 percent. Between 1972 and 2001, black males outperformed non-Hispanic white men in terms of income. Their real median income increased from 60% to 67.50% of white median income. Over the same time period, the absolute margin shrank significantly, falling from \$11,624 to \$10,325. Almost all of black male income improvements occurred

during the late 1990s economic boom; at the start of the decade, black male income relative to whites was lower than it was in 1972 (Martin and Yaquinto 83).

The image is drastically different for black women. In comparison to non-Hispanic white women, black women's actual median income fell from 92 percent in 1972 to 79 percent in 1988 before rising to 94.5 percent in 2001. The absolute gap in annual income between black and white women is much smaller than the one between men and women, reflecting wage discrimination experienced by all women (Martin and Yaquinto 83).

Even when comparing full-time workers, large income gaps persist, despite a black unemployment rate that is far higher than the rate for whites. Equally noteworthy is the startling persistence of racial inequity in other aspects of American life, despite laws enacted to remedy the inequities. Housing and health care are two issues that are critical to the well-being of individuals and their families, and they also demonstrate the limits of the civil rights revolution. Despite the fact that the 1968 Civil Rights Act made housing discrimination illegal, African Americans remain the most residentially segregated group in the United States.

Medicare and Medicaid have succeeded in increasing access to health care for a large number of people, demonstrating substantial improvement. Following the passage of these two laws, racial and income disparities in the use of health care facilities, including hospital stays and visits to doctors' offices, shrank significantly. These rules made an effect; black newborn death rates fell by half between 1960 and 1980, partly due to Medicaid. Nonetheless, racial disparities in several health indicators remained stable or, in some cases, worsened. The black infant death rate remained twice as high as the white rate, and it had further widened by 1998. Furthermore, according to one expert on race and health care, "black age-adjusted death rates were still 1.61 times that of whites in 1995, a difference practically constant since 1950." (Martin and Yaquinto 84).

In other words, neither the civil rights movement nor the decline of prejudice has made a significant change in racial disparities in mortality, the most basic metric of health. These ethnic inequalities cannot be explained solely by income or poverty level. One reason for these discrepancies is that blacks and Latinos continue to have significantly lower access to primary care physicians than whites.

Any legitimate understanding of race in America at the turn of the century must confront and account for these long-standing and persistent disparities between blacks and whites. Many supporters of racial realism, as well as those who believe in the new explanation for racial inequality, fail to do so for two reasons. For starters, they ignore or disguise severe and persistent racial inequalities. Second, the methodological assumptions that underpin their research of race in America lead them to overlook alternative theories that more closely “fit” the material they do present. Each of these concerns is addressed in the following analysis.

3.7. Are Reparations Prone to Foster Reconciliation and End Racial Discrimination?

Because no amount of money can heal the wounds inflicted past injuries; in fact, assuming money will suffice reveals that we have succumbed to our selfish tendencies once more. Is Reparations at least prone to foster reconciliation and end racial discrimination? In fact, slavery reparations claims face a number of challenges that have been thoroughly articulated. There are difficulties in determining a suitable response to the initial harm to slaves. Even if the initial harm can be identified, the passage of time and the myriad human acts and choices that have occurred since then make tracing the injury difficult.

Causing harm to present generations of African Americans, and differentiating the harm caused by slavery from the harm caused by slavery’s legacy. Furthermore, time has passed and all or nearly all defendants who took part in the wrongdoing were dismissed. When reparations claims are presented to courts, these issues affect the moral case for reparations and harden into serious doctrinal obstacles.

A claim for harm perpetrated on African Americans by whites is known as reparations. Groups, at least arguably, have a longer life span than individual members, and they can make claims without identifying the injury caused by specific members of the group. A claim on behalf of a group, on the other hand, poses issues of group definition, especially in light of future intermarriage and immigration. Because of the passage of time, group claims may be subject to offsets, such as credit for losses incurred by others.

Racism was reported by more than two-thirds of those polled. Anti-Latino prejudice and discrimination were manifested in a variety of ways, the majority of which were committed by white people. Americans of color have not gotten nearly enough attention, especially when considering their long history of white racism in this country.

Successors of the early white colonists and founders extended the racial supremacy structure developed for enslaving African Americans and killing or driving away Native Americans to brutalize other non-European groups. From the mid-nineteenth century to the present, numerous groups of non-Europeans, Chinese, Japanese, Mexican, and Puerto Rican Americans have been brought into this highly racialized US system, often to be abused for their labor. However, more of Non-European groups were brought into America's expanding white controlled land area the racist system that was developed for African Americans in relation to white communities was expanded to include Asian, Native American, and Mexican communities. Historical circumstances, such as the group's size and prior resources, as well as the timing and mode of entry into the sphere of white dominance, have usually resulted in significant differences in experiences with whites.

African-Americans, Asian-Americans, Latinos, Native Americans, and other people of color all have histories of white oppression and attempts to overcome it. In this society, they have all had to fight hard for human dignity and equality. Since most forms of racial oppression draw heavily on the white-racist framework long created for black Americans,

most white-racist attitudes and practices directed against the numerous U.S. groups of color reproduce and reinforce one another. Furthermore, the nature of white racism experienced by a group varies depending on its time of entry into the country, region of entry, size, cultural characteristics, or physical characteristics as perceived by the dominant group. As previously demonstrated whites positioned new Asian or Latino groups near the "black end" of this society's racist spectrum and targeted them for racial oppression. Later in the group interaction process, some within these broad umbrella categories were moved, once again by powerful whites, to an intermediate or closer to the "white end" of the racist white-to-black continuum. This placement is frequently used to dismantle coalitions of people of color and to protect the system of white power and privilege.

Conclusion

The present dissertation investigated and discussed the Controversial movement of Reparations; its history, its forms, the different movements around the word, and the Black Redress more specifically. The dissertation shed light on reparations cases due to huge violations which have triggered African Americans to launch their own movement. This study investigated the raising voices for and against the reparation movement.

The black reparations movement has a long and an extremely distinguished history in the United States. Restitution claims were filed decades before slavery was outlawed. Since enslavement, each generation of African-Americans has reconfirmed their rights demand. For instance, Marcus Garvey; a racial separatist, and Martin Luther King; a racial integrationist; advocated for the abolition of slavery.

The black reparations movement is an endeavor by black Americans and others to obtain redress from the federal and state governments for stolen capital on behalf of slaves, free blacks, and their descendants, whether through the tort model or the atonement model. Black activists perceived that it is crucial to recognize that the redress claim against the government covers not just the institutions, policies, laws, and processes of the split government established under the Constitution of 1787, but also those of previous regimes, such the Continental Congress, which was formed in 1776.

Besides, the National Association for the Advancement of Justice is one of today's proponents of redress, and the National Association for the Advancement of Colored People (NAACP) is the nation's oldest civil rights organization. Secretary of State Colin Powell, Jesse Jackson, and Luis Farrakhan are also advocates of black reparations. As a result, not only does the concept of slave redress have widespread support among African-Americans, but it is also a timely demand.

The present work has examined African American demands and racial injustice reparations in general, as well as some other noteworthy reparations issues from around the world. It has also depicted some of the African Americans' frustrations resulting from slavery and racial inequality throughout history. Furthermore, it has outlined the major reforms, redresses, and reparations, as well as their potential future success, as advanced by their advocates.

The United States is not the only country that has a heinous period in its history. However, the US seems to deal with the situation differently than other countries. Washington chooses to ignore its evil periods instead of addressing them. In this regard, they could learn from Germany after the Second World War. In 1952, Germany had already reached a plan for reparations for the Victims of the Holocaust. This plan consisted of payments to the victims, payments to multiple Organizations, and the erection of memorials and statues.

It has also obtained finances for the relief, rehabilitation, and relocation of Jewish victims of Nazi persecution, as well as assistance in the reconstruction of Jewish communities and institutions decimated by the Nazis. Besides, individual compensation programs for Holocaust survivors were administered, and recovered unclaimed East German Jewish property and donated the money to organizations that offer social services to elderly and indigent Nazi victims as well as Holocaust research, education, and documentation.

Finally, it is reasonable to conclude that this study is yet another small step toward addressing the reparations movement. It opens the door and paves the way for more research and studies on racial discrimination, as well as to those concerned with human rights and global movements. In addition, it enabled us to introduce this movement to our relatives and colleagues, in particular those interested in the field of human rights and liberties. This will spread collective awareness about the question of reparations for past harms across the world.

Much of the contemporary reparations debate is marked by a confrontational and demanding tone, which is exemplified in the law by the use of tort and unjust enrichment

doctrines to seek redress. This confrontational stance poses a number of legal, political, and ethical issues for reparations proponents, exposing the confrontation model's flaws and proposing a conversational model for reparations debate and advocacy as a substitute. The conversational framework is not only a superior litigation strategy that more closely resembles traditional civil rights litigation, but it also embraces the complexities of today's race debate, encouraging the American nation to engage in a more inclusive discussion of race's future in America.

Confrontation and demand are two characteristics that characterize reparations claims for African Americans. Such arguments are commonly associated with a demand for monetary reparations from whites to blacks for wrongs caused by slavery. As a result, reparations has been portrayed as a racist, divisive attack on white America, in which black victims attempt to form a nation within a nation in the hopes of receiving compensation for wrongs committed.

The primary goal of reparations is frequently to remedy past wrongs. That cure can occur in many ways, from an attempt to correct the historical record and the public's understanding of past events to compensation for past wrongs. However, in most cases, the tragedy of past crimes is that identifying anyone who retains a benefit is difficult or impossible. To put it another way, racial crimes frequently cause far more harm than good. It is not just a question of whether to repair past damage; it is also a question of whether to repair past damage with money.

Three plans for reparations for slavery and Jim Crow crimes have put forward, by black activists or proponents of reparations, with the concerns of correcting past injustice and fairness to those asked to contribute to the correction. The first strategy is truth commissions and apologies. It is inexpensive, and its low costs are shared by a large number of people. The second goes beyond apologies, involving Civil Rights legislation that gives victims of race discrimination additional rights of action. The third option is far more contentious:

community-based reparations for slavery. Individuals will be paid directly in cash under the final plan. With the coming years, reparations discussions are likely to focus on the moral case for repairing generations of violence, slavery, and Jim Crow-era state-sponsored discrimination. The moral case may be strong, but it appears to be politically hopeless from this vantage point.

At first appearance, restitution also appears to be more easily reconcilable with the widely held belief that legal and moral rights and obligations belong to people rather than organizations. Restitution is not the appropriate vehicle for reparations claims based on slavery and other large-scale historical injustices. The law of restitution does not support reparations claims. Instead, the justification for restitution, preventing unfair enrichment, lacks the moral force required to conclude a contentious public debate about moral rights and obligations across different social groups.

However, the benefits of a claim based on unjust enrichment are at best equivocal. An unjust enrichment claim, at its core, aims to correct a wrong by weakening the position of others, rather than by reducing the victim's suffering. In other words, unjust enrichment is a comparative concept that is based on resentment and a desire for retaliation rather than a desire to be made whole.

To round up, reparations for past injustice has often failed to achieve its aims. Perhaps, it will never correct the past injustices of slavery for the simple reason that it not fair to penalize people today the harms committed by their ancestors. The advocates of reparations are aware that their activism failed to remedy the harms blacks encounter nowadays as individuals and as a minority. They have to realize that reparations will not reduce poverty, the crime rates, and achievement gap. These ills are engrained within the American culture, and cannot be altered by any suggested reparations. Besides, providing payments would incite other minorities to ask reparations, and this would in the end lead the country to bankruptcy.

The study proposes that black reparations proponents must devote their time and energy to find out workable solutions that would lessen their daily problems. They have to speak in favor of self-reliance rather than preaching for an illogic and unrealistic cure for their present problems. They have to drop the idea of seeing themselves as victims and assume responsibility for their destiny. This would probably impact blacks in positive way. More than that, by depending on themselves, the blacks can attain their objectives and fulfill the American Dream.

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