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Feature Article

**Reparations for Descendants of American Slaves:
The Recurring Clarion Call that Emerges from Race-
Based, Social, and Political Movements**

Erika C. Weaver

THE INITIAL REQUEST FOR REMEDY

*The demand for reparations isn't new. It began with Callie House after enslavement ended. She knew that soldiers were given pension and sought a pension for freed slaves who were too old to work.*¹

In 2014, Ta-Nehisi Coates reminded societies of the moral and ethical premise of reparations when he quoted Deuteronomy 15:12-15.² Coates' piece detailed the parallels between the damages in the Black community caused by slavery those and compounded by housing discrimination and predatory mortgage lending.³ Twenty-five years before Coates, U.S. Representative John Conyers called for reparations on the floor of the House.⁴ Conyers had presented his bill, H.R. 40, to require the development of a commission to study "the negative impact of slavery on the black community and propose methods of redress."⁵ Most recently, young activists, through organizations like BYP100, have placed reparations as one solution under their Agenda to Build Black Futures.⁶

¹ Telephone interview with Kamm Howard, past Board Member at-large, N'COBRA, May 4, 2016.

² Ta-Nehisi Coates, *The Case for Reparations*, THE ATLANTIC, June 2014, <http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>, (quoting Deuteronomy 15:12-15: "And if thy brother, a Hebrew man, or a Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee. And when thou sendest him out free from thee, thou shalt not let him go away empty: thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the LORD thy God hath blessed thee thou shalt give unto him. And thou shalt remember that thou wast a bondman in the land of Egypt, and the LORD thy God redeemed thee: therefore I command thee this thing today")

³ *Id.*

⁴ Adam Howard, *Is the Case for Reparations Still Open?*, MSNBC, May 12, 2016, <http://www.msnbc.com/msnbc/the-case-reparations-still-open>

⁵ *Id.*

⁶ BLACK YOUTH PROJECT 100 (BYP100), *Agenda to Build Black Futures*, <http://agendatobuildblackfutures.org/our-agenda/solutions/#1>

Nevertheless, the fight of reparations dates back approximately thirty years after the Emancipation Proclamation freed millions of slaves, when Callie House partnered with Isaiah Dickerson to organize the National Ex-Slave Mutual Relief, Bounty & Pension Association.⁷ Once chartered in 1898, the organization became the Ex-Slave Pension Association, and offered both national and local membership, regardless of religion, race, or financial standing.⁸ On the local level, collected membership dues were used to pay for burial expenses and to care for sick and disabled members.⁹

In 1899, postal authorities determined that House and the organization were using mail to solicit money under false pretenses, and sent notices.¹⁰ After continued federal pressure, House stepped down from her position with the organization, but she continued to work to gain reparations for the freed slaves.¹¹ With the help of attorney Cornelius Jones, House sued the U.S. Treasury Department in 1903 for \$68,073,388.99 in cotton taxes that were directly traced to Texas slave labor.¹²

In 1915, after finally reaching the District of Columbia District Court, the court dismissed the case, citing governmental immunity.¹³ In 1917, House was convicted of obtaining money from former slaves by fraudulently claiming that reparations were forthcoming, and she was sentenced to one year and a day imprisonment.¹⁴ Upon early release for good behavior, House returned to her work as a laundress until her death.¹⁵

AFRICAN DESCENDANTS ARE NOT ISOLATED IN THEIR REQUEST FOR REMEDY

The National Conference of Black Lawyers (NCBL) provides legal support and professional development, educational programs on public matters, and

⁷ Virgil E. Statom, *Callie House (1861-1928)*, THE TENNESSEE ENCYCLOPEDIA OF HISTORY AND CULTURE, Dec. 30, 2009, <https://tennesseeencyclopedia.net/entry.php?rec=1575>

⁸ *Id.*

⁹ *Id.*

¹⁰ Miranda Booker Perry, *No Pensions for Ex-Slaves: How Federal Agencies Suppressed Movement to Aid Freedpeople*, 42.2 PROLOGUE MAGAZINE 28-33 (Summer 2010), available at <http://www.archives.gov/publications/prologue/2010/summer/slave-pension.html>

¹¹ *Id.*

¹² *Id.*

¹³ Darlene Clark Hine, *Review: From the Margins to the Center: Callie House and the Ex-Slave Pension Movement*, 91.3 THE JOURNAL OF AFRICAN AMERICAN HISTORY 311-17 (Summer 2006), available at <http://www.jstor.org/stable/20064095>

¹⁴ *Id.*

¹⁵ *Id.*

works in coalition with other groups, such that all actions are consistent with its mission.¹⁶ The NCBL's mission statement includes working to end oppression of all people, achieving self-determination of Africa and African communities, protecting human rights, and serving as the legal arm for the Black Liberation movement.¹⁷

The organization's president, Vickie Casanova said that the call for reparations is a remedy based on International Human Rights law.¹⁸ Casanova also stated, "African descendants are becoming more aware of their rights, but we are later than the indigenous people who have been advocating for themselves around treaties."¹⁹ Not only have indigenous people received some form or remedy, but Germany paid reparations for the horror of the Holocaust, and the United States paid reparations to Japanese Americans for the internment camps.²⁰

A YouGov study polled black and white Americans to see where they stood on whether slavery was a factor in the lower wealth average of African Americans.²¹ The study shows that 48% of blacks and 14% of whites believe that slavery was a factor, while 51% of whites and 14% of black believe that slavery was not a factor.²² Yet only 59% of black support the idea of reparations.²³ More recent studies show that 49% of millennials are opposed to the idea of reparations, citing that this may be influenced by the increased diversity of the generation, as only 44.2% of millennials identify as a member of a minority group.²⁴

WHAT DOES INTERNATIONAL LAW SAY?

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance laid out four primary areas of focus to combat racism and racial discrimination: (1) "Sources, causes, form and contemporary

¹⁶ NATIONAL CONFERENCE OF BLACK LAWYERS (NCBL), *Our Mission*, <http://www.ncbl.org/goals/>

¹⁷ *Id.*

¹⁸ Telephone interview with Vickie Casanova, President, National Conference of Black Lawyers, (May 2, 2016).

¹⁹ *Id.*

²⁰ Julia Craven, *We Absolutely could Give Reparations To Black People. Here's How*, HUFFINGTON POST, Feb. 22, 2016, http://www.huffingtonpost.com/entry/reparations-black-americans-slavery_us_56c4dfa9e4b08ffac1276bd.

²¹ *Overwhelming oppositions to reparations for slavery and Jim Crow*, YOUGov, Apr. 4, 2016, <https://today.yougov.com/news/2014/06/02/reparations/>.

²² *Id.*

²³ Craven, *supra* note 20.

²⁴ Howard, *supra* note 1.

manifestations of racism, racial discrimination, xenophobia and related intolerance”; (2) “Victims of racism, racial discrimination, xenophobia and related intolerance”; (3) “Provision of effective remedies, recourse, redress, and compensatory and other measure at the national, regional, and international levels”; and (4) “Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia, and related intolerance.”²⁵

Specifically, in paragraph 118, the Conference declared that it “welcome[s] the catalytic role that non-governmental organizations play in promoting human rights education to illuminate how institutional racism can be counteracted by “anti-racist non-governmental organizations.”²⁶ Paragraph 122 further upholds this “global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance,” to be “undertaken. . . in a spirit of solidarity and international cooperation” under the mantle of the United Nations’ Charter and other relevant international instruments.”²⁷

Kamm Howard, a past board member of the National Coalition of Blacks for Reparations in America (N’COBRA), explained that in order for international human rights law to have an impact on domestic policy, it requires five elements. First, there must be cessation a guarantee to stop the harmful act or put a safe guard in place to prevent it. Secondly comes restitution, or how to return the targeted population to their original state. Third, if restitution does not make a people whole, then comes compensation, which can take the form of monetary or other material relief. Beyond restitution, there is also satisfaction, which is the return of dignity back to the people who were harmed. Finally, rehabilitation addresses the psychological and emotional damage that has been suffered.²⁸

In a recent report, the U.N. Working Group found that there is a high concentration of African Americans in low-income areas.²⁹ African Americans

²⁵ World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Aug. 31–Sept. 8, 2001, *Durban Declaration and Programme of Action*, at 6-21, U.N. Doc. A/CONF.189/12 (Sept. 8, 2001), available at <http://www.un.org/WCAR/durban.pdf>.

²⁶ *Id.* at ¶ 118

²⁷ *Id.* ¶ 121

²⁸ Howard *supra* note 1.

²⁹ *Statement to the media by the United Nations’ Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016*, OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000&LangID=E>.

with profiles to their White counterparts, are more likely to be victims of predatory lending.³⁰ The Working Group found correlations between racial segregation and the disparities African Americans suffer in access to health, education, and adequate food.³¹ African Americans have low representation in high level working positions and are heavily impacted by gentrification.³² Further findings include the impact of mass incarceration, the presence of law enforcement in public schools, and the prosecution of underage offenders as adult has an increasingly damaging impact on African Americans.³³ The excessive punishments of poor children for minor offenses, and the mandatory minimum sentences and zero tolerance policies apply racial biases.³⁴ The recommendations include, but are not limited to, the passage of H.R. 40 and the examination of the negative impact of slavery and discrimination from 1619 to the present:

There is a profound need to acknowledge that the transatlantic slave trade was a crime against humanity and among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance and that Africans and people of African descent were victims of these acts and continue to be victims of their consequences. Past injustices and crimes against African Americans need to be addressed with reparatory justice.³⁵

WILL CHICAGO ACTIVISM SERVE AS A CATALYST FOR REPARATIONS FOR AFRICAN DESCENDANTS?

Both Howard and Casanova recognize that reparations that were awarded to victims of torture by Chicago police officer Jon Burge.³⁶ Casanova believes that this decision shows the trauma associated with torture, while Howard adds that it shows the gross violations of the state, specifically the City of Chicago. However, substantial arguments exist in opposition of reparations; the most common is that everyone who was enslaved has since died.³⁷ Duke Professor

³⁰ *Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016*, OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000&LangID=E>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN, *supra* note 29.

³⁶ Casanova *supra* note 18; Howard *supra* note 1.

³⁷ *20/20: Americans Debate Reparations for Slavery*, ABC NEWS, Mar. 23, 2016, <http://abcnews.go.com/2020/story?id=124115>.

William Darity has suggested that funds could be used to finance higher education or a pathway to create one's own business for African Americans.³⁸ Howard supports similar remedies, particularly in reference to education, "African descendants went from illiteracy to 90% literacy in the shortest amount of time of any people in the world, and now our children are at least 2-3 grade level behind in reading. There must be an effort to return us to the original state."³⁹

In order to be eligible for any form of reparations, Darity proposes two stipulations: 1) at least 10 years prior to the onset of reparations, an individual must have self-identified as black, African American, colored or Negro (on a census form or other formal document); and 2) each individual must provide proof of an ancestor who was enslaved.⁴⁰ Casanova feels that this measure may be used to narrow the pool of eligible recipients.⁴¹ However, Howard believes that this formula may prevent people who are not descendants of slaves from abusing any implemented reparations.⁴²

BYP100 has presented a new set of recommendations to serve as a framework to successfully implement reparations.⁴³ These recommendations call for passage of H.R. 40, with focus on creating establishing budget lines for reparations at the municipal, state, and federal levels.⁴⁴ Budget allocations are based on N'COBRA recommendations to be issued in forms such as: 1) cash payments; 2) land and economic development; 3) scholarship funds; and 4) textbooks and other educational materials to accurately depict the history of Black people.⁴⁵ More specifically, the agenda calls for colleges and universities that have benefited from slave labor to support an endowment for a national scholarship fund for Black students to pay for college.⁴⁶ There is also a recommendation to restore voting rights to those with felony records, and to establish and independent compensation commission to process claims and disperse funds.⁴⁷

³⁸ Craven, *supra* note 20.

³⁹ Howard, *supra* note 1.

⁴⁰ Craven, *supra* note 20.

⁴¹ Casanova, *supra* note 18.

⁴² Howard, *supra* note 1.

⁴³ *Agenda to Build Black Futures*, BLACK YOUTH PROJECT 100, http://agendatobuildblackfutures.org/wp-content/uploads/2016/01/BYP_AgendaBlackFutures_booklet_web.pdf

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

CONCLUSION

The demand for reparations has been an ongoing call for over a century. It is the just demand for unjust and treacherous harms suffered by enslaved Africans and their descendants. It is a remedy that has been given to other populations as a result of the massive harms that they have suffered. Reparations is a form of remedy that may include direct financial payments, but is proposed to include: (1) education subsidies; (2) student loan forgiveness; (3) psychological and emotional supports; (4) small business opportunities, and; (5) national recognition and education of deep-rooted effect of racism and racial discrimination.

International human rights laws have been codified to support the equitable treatment of disenfranchised people and provide reparations as a remedy where there has been gross misconduct against marginalized groups by government actors. America has long avoided accountability by enforcing governmental immunity. However, we must find a way to sincerely and honorably attempt to repair the trauma that was done to African descendants by slavery, Jim Crow, segregation, and the ongoing practices of systematic racism.