# Reparations Study Report

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## Introduction

At the 2023 League of Women Voters (LWV) of Massachusetts Council, the LWV Amherst proposed a study of reparations to determine whether the LWVMA should adopt, by consensus, a position on reparations. Delegates voted by a wide margin to form a study committee.

The proposal was set against a background of a number of recent and on-going reparations efforts, including but not limited to:

- The Town of Amherst, MA, created a reparation fund, and assigned creating a plan to its African Heritage Reparations Assembly (AHRA).
- Other Massachusetts cities such as Boston and Northampton are considering studies of reparation.
- The town of Evanston, IL, was the first municipality in the US to establish a reparations commission and to pay out benefits to inhabitants of African American descent.
- A bill filed in the Massachusetts Senate proposes a commission to study reparations; a bill has also been filed creating reparations for the descendants of American slavery.
- The State of California created a task force to study reparations that made extensive policy recommendations.

These examples, and others, are cited and described more fully in this study report. As Nikole Hannah-Jones has observed, “It feels different this time.” (What Is Owed)

For this study, the study committee addressed two definitions of who should receive reparations:

1. The committee considered reparations for descendants of Black Africans enslaved in the United States from 1619 to the abolishment of slavery. This focus, however, raises the question of *why not all Black Americans who experience the racist legacy of slavery*?
2. Thus, in addition, the committee looked at the broader concept of *Comprehensive Reparations*, which “focus on making reparations accessible, inclusive, and constructive” for all Black Americans.

The *Who Should Receive Reparations* section in this report provides details on the committee's research into the two definitions and the organizations that support them.

Overall, this study report addresses four questions:

1. *Why are reparations needed*: since emancipation, what biases, discrimination, segregation, and failed programs and policies have made reparations essential to fulfilling the promise of "all [persons] are created equal"?

2. Given the definitions (above) of *who should receive reparations*, when exactly were enslaved Africans emancipated, who exactly are they, and how can their descendants be identified? What are *Comprehensive Reparations*, how is eligibility determined, and how might remedies differ?

3. *What reparations should be provided*: apologies, truth-telling, programs, policies, payment?

4. *How should reparations be provided*: federal, state, local governments, private organizations, faith-based organizations, academic institutions, and corporations?

This study report documents the committee's research into these four questions. It is the foundation for the study guide, which describes consensus questions that local leagues may vote *yes* (or *no*) to support (or not) reparations.

## The Wealth Gap: Definition and Current Black-White Wealth Gap

Arguably, closing the Black-white wealth gap is an important key to repairing many of the harms that slavery and its aftermath inflicted on Black Americans. As William Darity, Jr., asserts: “we view wealth, or net worth, as a more powerful measure of economic well-being than income. Indeed, we view the racial wealth gap as the most robust indicator of the cumulative economic effects of white supremacy in the United States.” [Darity p, 405]

First, wealth is different from income, although the two are obviously connected. A family’s wealth is defined as their *assets* (possessions of value such as real estate, works of art, antiques, etc.) minus *liabilities* (mortgages, student loan debt, car loans, credit card debt, etc.).

Comparing the wealth differences between white families and Black families defines one racial wealth gap in the US. We can measure others such as white-Hispanic, white Indigenous, and white-Asian, but only Asian wealth is greater than white wealth; white wealth is more than 3 times greater than native/mixed-race/other and 7 times greater than Hispanic wealth and Black wealth, according to a 2022 Federal Reserve Board survey. [Investopedia1]

“With respect to Black families, evidence points to the role of slavery and post-slavery practices, such as segregation, that created disparate opportunities for wealth accumulation.... In turn, these factors likely contribute to the lower rates and sizes of inheritances received by Black and Hispanic households in comparison with White households.” [Pew]

“Material conditions are not the same for ‘working class’ blacks and whites.…To elaborate, with respect to asset poverty, it is noteworthy that the median net worth of whites in the bottom 20 percent of the nation’s income distribution is higher than the median net worth of all black Americans. With respect to health outcomes, at every level of education black women’s infant mortality rate exceeds that of white women, and black women with advanced degrees have higher infant mortality rates than white women who never finished high school. With respect to safety in encounters with the police, not only are blacks far more likely to have fatal encounters, but they also are far more subject to harassment associated with police stops, especially while driving.” [Darity, p 391]

Closing the racial wealth gap has “all but stalled.” White wealth grew at a faster rate than Black wealth after the Great Recession (2010) and after the pandemic. A Princeton study concludes that “today’s Black-white wealth gap is a direct legacy of slavery and the discriminatory institutions that followed it–and likely wouldn’t have entirely closed even with policies that reduced inequities in investment returns and savings among Black and white Americans.” [Princeton]

Another report provides a broad overview of the racial wealth gap, summarized as:

- “The gap in assets is far wider than disparities in wages across races.
- “Income inequality, housing policies, limited educational opportunities, and a lack of support structures contribute to the racial wealth gap.
- Data reveals a growing gap in median wealth across race and ethnicity in the U.S. since the civil rights era of the 1960s.” [Investopedia1]

Two important factors in accumulation of wealth are financial literacy and access to banking services. Financial literacy increases with education and income; decreases vulnerability to fraud; and increases the likelihood of acquiring wealth over time.

“If you look for the causes of the wealth gap, one major answer lies in unequal access to basic financial education. Financial literacy is obtained over time from one's family, high school, and employer. Studies show that minorities and women are more likely than others to lack the background they need to cope with an increasingly complex world.” [Investopedia2]

Black households often lack access to basic bank services and become prey to financial predators: “Payday loans, high-fee check-cashing services and outright scams find fertile ground in a community still affected by generations of discrimination and lack of access to traditional financial instruments.” [Marketplace]

The following sections address the history of racism and discrimination in housing, health care, and education since Emancipation to underscore the deep and on-going causes of the wide and widening racial wealth gap in the US today and why reparations are needed.

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## Why Are Reparations Needed? Housing

Since 1619, a pattern of denying land, and thereby stable housing, to enslaved, formerly enslaved, and descendants of enslaved people has prevailed in the US. American slavery was *chattel slavery*: enslaved Black Africans were property, considered more farming stock than persons, and as such best suited to hard labor on a plantation.

In 1787, the Three-Fifths Compromise enshrined the idea that enslaved people were not wholly persons: it "counted enslaved people as three-fifths of a whole person to apportion seats in the House of Representatives, thus affording the slave-majority southern states greater representation in Congress." [MV] Arguably, this view of enslaved people has fed into biases and attitudes down to this day.

Upon Emancipation, when asked what they wanted, newly freed people replied, "Land," and 40 acres per person was promised – early reparations to people who were now free, but had no means of securing the basic necessities of livelihood. [PBS1]

### After the Civil War and Emancipation

But upon Abraham Lincoln's assassination, that promise was broken. His successor, Andrew Johnson, returned the land to the white landowners who had originally owned it, "to the very people who had declared war on the United States of America." [PBS2] Henry Louis Gates, Jr., further points out, "Try to imagine how profoundly different the history of race relations in the United States would have been had this policy been implemented and enforced; had the former slaves actually had access to the ownership of land, of property; if they had had a chance to be self-sufficient economically, to build, accrue and pass on wealth." [PBS2] For one thing, the League of Women Voters likely would not be studying reparations more than 150 years later.

### The Homestead Act 1868-1934

Under the Homestead Act, "[f]rom 1868-1934, the federal government gave away 246 million acres, in 160-acre tracts, nearly 10 percent of all the land in the nation, to more than 1.5 million white families, native-born and foreign. Some 46 million American adults today, about 20% of all American adults, are descended from those homesteaders." [Hannah-Jones, p 464]

The 1866 Civil Rights Act and the 14th Amendment ensured that African Americans were eligible for tracts of land under the Homestead Act. A National Park Service Study estimates that "approximately 3,500 black claimants [heads of families] succeeded in obtaining their patents (titles) from the General Land Office, granting them ownership of approximately 650,000 acres of prairie land. Counting all family members, as many as 15,000 people lived on these homesteads." [NPS] Today, between 100,000 and 200,000 American adults are descended from African American homesteaders, or about .00009% of all American adults. [UNeb]

There was no specific barrier to Black people claiming tracts of land under the Homestead Act. In an earlier land grant program (Southern Homestead Act), "former slaves tried to settle on public lands in the South, but relentless white violence mostly defeated them. In the Great Plains [under the Homestead Act], they found success" -- creating towns and farming the land. [WAPO]

Clearly, however, Black homesteaders were a very small percentage of all homesteaders: 3,500 Black homesteaders to 1,500,000 white and works out to .0023%. The1870 census data indicate that with about 34 million white people and about 5 million Black people, Black people made up about 14% of the population at that time. [WIKI] Attitudes honed by almost 250 years of slavery followed freed Black people wherever they went.

In 1862, President Lincoln established the Department of Agriculture as the "people's department" in support of agricultural workers. However, "[e]vidence from available literature and other sources point to institutional discrimination against Black farmers" and the USDA came to be known as "the last plantation." [Tuskegee]

The evidence continues to accumulate: in March 2021, President Joe Biden signed the Coronavirus Aid, Relief, and Economic Security Act, which included $4 billion in debt relief for socially disadvantaged farmers, a designation that includes Black [and other minority] farmers. "[T]he bill was attacked by conservatives like South Carolina Senator Lindsey Graham as slavery "reparations,' though economists at Duke University and Harvard Law School reported that the measure offer[ed] a 'pittance' compared with the land's true value…. Also lost in the discussion of the bill was the fact that it offer[ed] debt cancellation only to farmers who [had] outstanding USDA loans. But because of the agency's racist lending policies, few Black farmers ever received USDA money in the first place." [Nation]

## New Deal Legislation: Social Security and the National Housing Act, 1934-35

Later federal policies and programs imposed restrictions that often excluded Black Americans. The Social Security Act of 1935 provided coverage to workers in commerce and industry -- about half the workers in the American economy. Among the many excluded groups were agricultural and domestic workers—a large percentage of whom were African Americans. A Social Security Administration report includes a table using 1933 census data that shows 65% of Black American workers (vs. 27% of white workers) were excluded, which certainly limited their ability to purchase property. [SSA]

Thus, USDA and Social Security policies created a broad pattern of federally-sanctioned discrimination against Black people that continues today.

Also growing out of the New Deal, the National Housing Act of 1934 created the Federal Housing Administration (FHA). The FHA, part of the Department of Housing and Urban Development (HUD), insures mortgages on single family homes, multifamily properties,

residential care facilities, and hospitals throughout the US. But it was also one of the architects of “redlining,” color-coded appraisals of neighborhoods designed to indicate safe and risky mortgages. Neighborhoods that African-Americans lived in or near were colored red, indicating they were too risky to insure mortgages. In addition, the FHA subsidized builders who were mass-producing subdivisions and requiring that none of the homes be sold to African-Americans. Furthermore, the agency recommended that highways were a good way to separate redlined neighborhoods from the less risky ones. [Roth]

### The VA and GI Bills, 1940s and 1950s

The VA and the GI Bill also adopted redlining: federal agencies basically ensured that African Americans had few housing options outside of urban projects, as white buyers fled to suburban developments. The FHA, VA, and the GI Bill enabled the white middle class to become prosperous, suburban, single-family homeowners but “African-Americans and other people of color were left out of the new suburban communities — and pushed instead into urban housing projects.” [Roth]

But even urban housing projects for Black families were hard won. On February 28, 1942, for example, “Black families attempted to move into their new homes in Detroit, Michigan, but were met with violence and intimidation from white mobs and were ultimately denied entry to their homes…. On move-in day, only a few Black families braved the harassment and intimidation. Some were struck with rocks. Police responded by halting the moves and arresting more than 200 Black people and only three white individuals. The new residents were displaced until April, when six Black families moved in under the protection of 2,000 city and state officials. [EJI]

In a National Bureau of Economic Research (NBER) study on the GI Bill, “[t]he authors conclude that the availability of benefits to Black veterans had a substantial and positive impact on their educational attainment outside the South. However, for those Black veterans more likely to be limited to the South in their collegiate choices, the G.I. Bill exacerbated rather than narrowed the economic and educational differences between blacks and whites.” [NBER]

The GI Bill was administered locally, which in the south meant that segregation and bias limited opportunities for education, jobs, and housing for returning Black veterans. “Of the 3,229 GI Bill-guaranteed home, business, and farm loans made in 1947 in Mississippi, for example, only two were offered to Black veterans.” [Darity, p 382]

In the north, Black veterans were hampered by redlining, which did not end until banned by the Fair Housing Act of 1958. As a result, “Black veterans were staying in impoverished areas instead of moving to the suburbs, as their white counterparts did.” [Heller] The History Channel provides an overview of the barriers that Black veterans ran up against: How the GI Bill’s Promise Was Denied to a Million Black WWII Veterans.

## White Flight to Suburbs, 1950s and 1960s

The white veterans who benefitted from the GI Bill played a key role in the white flight to the suburbs. Supported for mortgages by the GI Bill and the FHA, young white families flocked to the suburbs for their new homes, good schools, safe streets, and services (e.g., public libraries, swimming pools, shopping centers), built with the help of state and federal subsidies. [Bloomberg]

Contract sales and redlining in the 1950s and 60s up through the subprime loans of the 2000s restricted what Black people could purchase and came with the strong possibility that they would lose their homes. Contract sales were private agreements negotiated when redlining prevented Black buyers from getting mortgages. “Buyers scraped together excessive down payments and made monthly installments at high interest rates toward inflated purchase prices.” Missing a payment often meant contract termination and the buyer had no equity in the home. Contract selling was a big business, enjoying “the backing of the very banks that turned down black homebuyers and of investment syndicates … all of whom profited handsomely by exploiting a separate and unequal housing market to the profound disadvantage of black families.” [Duke]

These policies also meant that the homes were in areas with lower property values than comparable homes in white neighborhoods. [Atlantic1] A 2016 New York Times editorial describes contract sales and links them to subprime loans. [NYT1] In addition, Ta-Nehisi Coates provides a moving interview with a Chicago home owner who managed to pay off the contract and remain in his home. [Atlantic1] This interview is echoed in a recent Boston Globe article covering an event where Roxbury residents recounted their struggles to by homes. One researcher pointed to a 1981 report by the Mayor’s Office of Fair Housing and noted, “The city failed to prevent racial disparities that they knew about and failed to protect Black and brown folks from discrimination. The city of Boston has a lot to atone for.” [Globe]

White suburbs also resisted public transit in their midst as it might encourage urban Black workers to commute to suburban jobs. In cities, planners destroyed minority communities (both rich and poor) by building highways, including the Interstate Highway System, through them for white workers commuting from the suburbs. Within cities across the country, highways also served as boundaries separating Black and white communities. “Public and private forces—city planners, local and state elected officials, federal housing program administrators, mortgage bankers, and real estate brokers—worked together to push African Americans into ghettos. The segregation we know today became the rule.” [Hannah-Jones2, pp 406-410]

## Today

Throughout this entire time, race-based violence – e.g., the Tulsa riot – often included burning homes and other structures controlled by Black Americans. See Racial Violence in the United State since 1526 for the very long list of violence, riots, protest, and unrest in all parts of the US, each list item linked to more information.

The legacy of this history and its policies and practices is also seen in suburban zoning for single-family homes giving rise today to NIMBYism across the US that opposes building new housing using zoning and planning that allows for a greater number and range of housing for a greater diversity of residents.

The Fair Housing Act of 1968, the Home Mortgage Disclosure Act of 1975, and the Community Reinvestment Act of 1977 did provide some relief from redlining and banking bias. But a 1978 Supreme Court decision reinterpreting the National Bank Act and the repeal of the Glass-Steagall Act in 1999 led to wild growth of the financial sector which led to subprime lending, often targeting Black home buyers. These loans were more likely to end up in default and when many did, they fueled the Great Recession of 2008-09. [McGhee, pp 74-75, 82-87]

In 2015 the New York Times reported on a study of metro areas across the country that documents "the neighborhood gap.… [T]he typical middle-income black family lives in a neighborhood with lower incomes than the typical low-income white family." [NYT3] For example, a Black household with an annual income of $100,000 likely lives in a neighborhood with a median income of $54,400, which means the children in that household may not experience the same quality of schools and other community amenities as white children in households with comparable incomes.

The author points out that many Americans, of all races, tend to want to live in areas with people like themselves. But for Black Americans, because of housing discrimination, this means they are more likely to live in lower-income neighborhoods. "But the neighborhood gap is also a reflection of the wealth gap: White families have considerably higher net worth than black families… A white family making $50,000 is much more likely than a black family to have the savings for a down payment on a house in a middle-class neighborhood." [NYT3] And the Black family is less likely to have generational wealth to tap into. [NYT2]

As a coda to the history of housing inopportunity for Black Americans, a recent, lengthy book review in the *Atlantic* outlines the current state of the suburbs. The book, Disillusioned by Benjamin Herold, 2024, describes a pattern of housing developments that are now deteriorating in five suburbs owing to fiscal mismanagement that kept taxes low by kicking repairs down the road. White residents fled the crumbling roads, schools, and sewer systems, often selling to Black and minority buyers who could now afford the homes. "One developer suggests that what's happened … is the equivalent of a Ponzi scheme...We build a place, we use up the resources, and when the returns start diminishing, we move on, leaving a geographic time bomb in our wake!" [Atlantic2]

The author of *Disillusioned* asked one of his interviewees, a young Black single mother (who was priced out of her gentrified urban neighborhood), to write the epilogue to the book. In part, she wrote, “We want to build good lives for ourselves. We want to raise our children in safe environments. We want to have them in schools where they are being taught and governed by folks who have their best interest at heart. We want the same deal that the suburbs gave white families like Ben’s [the author]. This time, though, we want it to last.” [Atlantic2]

## Housing and the Wealth Gap

Clearly, laws have not fixed access to housing. We are not even close to giving Black families the same deal that white families got. The Civil Rights Act (1964) did not “correct the harm nor restore what was lost” [NYT1] and the Fair Housing Act (1968) did not rectify redlining. In America, home ownership means wealth and, as this essay has shown, Black Americans generally were, and are, left with fewer opportunities to achieve the generational wealth that white Americans did, and do.

Nikole Hannah-Jones cites Duke University economist William Darity, Jr.: “the ability to purchase a home in the first place is seldom a result of just the hard work and frugality of the buyer. It’s actually parental and grandparental wealth that facilitates the acquisition of a home.” [NYT2] Our history of conscious and unconscious racial bias has worked against the generational wealth that fuels white middle-class home ownership in this country.

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## Why are Reparations Needed? Health Care

Health care has long been a fraught topic in this country. We watched the political churn around Hillary Clinton's efforts in the 1990s and the rocky road to the Affordable Care Act (aka Obamacare) in the early 2000s, but the work to provide a system of health care for all Americans goes back much further in our history and has failed repeatedly. We remain the only first-world country that does not provide national health care for our people.

And the reasons for this rest in racism: Black Americans have been consistently denied health care, and have often been abused. In the 1840s, for example, the father of modern gynecology, Dr. J. Marion Sims, used enslaved women as laboratory animals (who also deserve better treatment) to develop gynecological tools experimentally, without anesthesia. [Darity1, p 363] But such treatment didn't end with Emancipation and Reconstruction.

### Post Civil War

The tragedy of Emancipation is that enslaved peopled were freed but had no resources of their own to survive: "The nation faced a full-blown humanitarian disaster. Freed people did not have enough food, clothing, shelter, or medical care. They were plagued by dysentery, cholera, and a bleak roster of other diseases. And they had no reliable help for addressing these problems." They died in high numbers, but it was argued that "dirt, debauchery, idleness are the causes of this inordinate mortality." [Hannah-Jones, pp 389, 391]

In 1865, Congress created the Freedmen's Bureau to help the newly freed people to survive to live in freedom. But its mission wasn't clear and Congress was divided on what its responsibilities were or whether it even should to exist. Republicans favored assistance but Democrats, largely Southern landowners, and President Andrew Johnson did not, claiming it only would foster dependence. The Bureau's Medical Division did try to create a system of hospitals for newly freed people, but one of its motivations was to keep them healthy enough to continue to work the plantations. The debate about dependency heightened, and as smallpox devastated the Black population, it was also argued that "Black people were so ill-suited to freedom that the entire race was going extinct, and the best lawmakers could do was to let nature take its course." [Hannah-Jones, p 390-391]

During Reconstruction, efforts to provide health care and facilities for formerly enslaved people foundered against continuing bias that Black people were inferior and unworthy. After Reconstruction, the Medical Division was dismantled. Black communities worked to build -- and rebuild -- their own hospitals and health care facilities because white hospitals would not treat them and Black hospitals were often targets for destruction. [Darity1, p 173]

But the small number of Black hospitals, facilities, and medical schools that survived meant that Black patients, if they saw a medical professional, they rarely saw someone who looked like them or was from their community. They became naturally distrustful of white doctors, of the level and quality of care, and of hospitals and medical facilities. [Darity1, pp 171-177]

In 1896, in the *Plessy v. Fergusion* ruling, the Supreme Court upheld a Louisiana law allowing "equal but separate accommodations for the white and colored races." [NatArch] "Hospitals were included in these segregation efforts." [Darity1, p 173] Jim Crow became the law of the land.

## Early to Mid-20th Century

In addition to the Supreme Court's ruling affirming Jim Crow, Southern Democrats in Congress continued to gain power and control, blocking efforts to create an effective approach to providing health care. Insisting on local, i.e., state, administration of federal programs meant that the programs benefitted white people the most. [Hannah-Jones, p 392]

This focus on "states' rights" ensured that attempts to provide equitable health care for everyone were foiled by the discriminatory policies and tactics of unreconstructed southerners in Congress, sitting on powerful committees, from Teddy Roosevelt to FDR.

In 1901, the Socialist Party endorsed accident, unemployment, sickness, and old age insurance at its founding convention. This endorsement was part of the 1904, 1908, and 1912 presidential platforms for Theodore Roosevelt's three runs for office (he lost to Woodrow Wilson in 1912). This was an era of great social reform movements, and the American Association for Labor Legislation crafted reform legislation, including health case, which was endorsed by the American Medical Association. But World War I and the Bolshevik Revolution in Russia dampened support for social reform, and the AMA reversed its position. Reform legislation failed in a number of states, as interest died, to resurface only during the Depression and Franklin Roosevelt's New Deal. [NIH4]

Opposition in the 1930-40s fought national health care on the grounds it was "socialized medicine" and led to "dependency" [1619, p 394] And while the Social Security Act was a milestone, health insurance was deliberately excluded from the FDR's legislation because organized medicine (the AMA) and its allies opposed it. [NIH4]

President Truman endorsed national health insurance in 1948. "But postwar politics dominated by Cold War ideology and the McCarthyite witch hunts fueled a massive antireform mobilization that undercut progressive health reform efforts. The AMA's war chest also helped to defeat over 80% of pro-health insurance legislators in 1950." [NIH4]

Much later, in 2008, after a three-year study of the racial divide in organized medicine, the AMA issued an apology and said, “As we grapple with AMA’s 174-year history, we must acknowledge that decisions by AMA leaders contributed to a health care system plagued by inequities and injustices that harmed patients and systemically excluded many from our physician ranks.” [AMA]

### Mid to Late-20th Century

While health care reforms failed in the early the 20th century, medical experimentation on Black patients and subjects continued. From 1932-1972, in the Tuskegee experiment, Black men were left untreated for syphilis so the progression of the disease could be observed. In other cases, Black men were used in radiation experiments, exposed to mosquitos carrying yellow fever, subjected to neurosurgery, and injected with the discontinued weight loss drug, Fenfluramine. None of the subjects had informed consent. Forced sterilizations were performed on Black women who were in the hospital for non-obstetrical reasons. “[S]terilization programs were adopted in 30 states and resulted in the sterilization of upward of 60,000 persons.” In the 60s and 70s, physicians denied medical services to Black female welfare recipients unless they agreed to sterilization. “During this period, state legislators considered a rash of punitive sterilization bills aimed at the growing number of blacks receiving public assistance.” [Darity2, pp 363-366]

Another notorious case of patient abuse was that of Henrietta Lacks, whose cancer cells were taken from her, without permission, during treatment for cervical cancer in 1950 and given to researchers. Those cells proved to be invaluable, underpinning to this day much modern biological research, including COVID-19 vaccine research. “But the story of Henrietta Lacks also illustrates the racial inequities that are embedded in the US research and health-care systems. Lacks was a Black woman. The hospital where her cells were collected was one of only a few that provided medical care to Black people. None of the biotechnology or other companies that profited from her cells passed any money back to her family. And, for decades after her death, doctors and scientists repeatedly failed to ask her family for consent.” [Nature] In 2023, her family finally reached a settlement with Thermo Fisher Scientific, a science and technology services company that profited by selling Lacks’s cells. [NPR]

Southern Democrats continued to wield power in Congress to exclude Black Americans from federal programs … by ensuring that states controlled the administration of the programs by devising hurdles such as “onerous and subjective tests for determining need.” [Hannah-Jones, p 392]

In the absence of any national health care program, employer-base health insurance gained momentum after the World War II and into the 1950s and 1960s. But these plans

were largely in jobs closed to Black workers. Pullman porters were exceptions who had access to insurance but not to white medical facilities, thanks to AMA opposition. [Hannah-Jones, p 393]

This changed in 1964 when the Civil Rights Act guaranteed integrated health care under Medicare and Medicaid for Black Americans. But Southern Democrats (now switched to the Republican Party after the Civil Rights Act passed under Democrat Lyndon Johnson) made sure that states would administer Medicaid. As a result, benefits vary and while hospitals did become integrated, "Black and Latino Americans still have the highest uninsured rates in the country and…a disproportionate share of the nation's poor health outcomes." [Hannah-Jones, p 394]

Segregation in hospitals and medical facilities lasted until 1965 when Medicare was signed into law: "With one stroke of the president's pen, more than 7000 hospitals were subject to the civil rights regulations set forth in Title VI. Because these hospitals desired Medicare dollars, they desegregated; long-term defiance of the law was simply not an option… Discrimination in medical facilities [was] one of the most pernicious features of health care during the Jim Crow era… One responsibility of public health is to foster policies that promote health, and one lesson of our history is that countering discrimination and racism should be a public health priority." [NIH3]

The 20th century was rounded out by the universal health care reform attempted by the Clinton Whitehouse, with Hillary Clinton chairing the task force developing the plan that failed in a Democratic Congress. "We were naïve," she said, "underestimating Republican resistance, which strengthened as the plan developed and they saw it as "big government." Newt Gingrich called the plan "centralized bureaucratic socialism." [NYT1] In other words, the Republicans were hauling out the old tropes used to oppose health care reform and equity since the early 20th century.

## 21st Century and COVID-19

The disparities in health care between Black people and white people continue to persist into the 21st century and "are thought to arise from a number of factors, including poverty; health-insurance rates; housing stock; access to grocery stores and parks; and discrimination in how people of different races are treated by medical professionals." [NYT2].

An AP report describes one type of widely used kidney function test: "… that overestimated how well Black people's kidneys were functioning, making them look healthier than they really were — all because of an automated formula that calculated results for Black and non-Black patients differently. That race-based equation could delay diagnosis of organ failure and evaluation for a transplant, exacerbating other disparities that already make Black patients more at risk of needing a new kidney but

less likely to get one." And this is "just one example of a larger problem permeating health care. Numerous formulas or "algorithms" used in medical decisions — treatment guidelines, diagnostic tests, risk calculators — adjust the answers according to race or ethnicity in a way that puts people of color at disadvantage." [AP]

"Further, the risks are very high for women of color: "CDC data show that Black women are two to three times more likely to die from pregnancy-related complications than white women, with most of the maternal deaths being preventable. This heightened risk spans all income and education levels. According to the study from the National Bureau of Economic Research, the wealthiest Black woman in California is at a higher risk of maternal mortality than the least wealthy white woman." [JHU]

Racism also leads to mental health issues; for example, racial trauma can lead to intergenerational trauma: traumatic racial stress passed from one generation to the next through repeated micro-aggressions, and worse. Stress is a normal reaction to trauma: "People who have experienced multiple traumas throughout their lives are at greater risk for experiencing another trauma. They also experience more severe symptoms and longer lasting effects." [McL] But Black people generally have less access to mental health support and facilities.

In 2010, landmark health care legislation passed under our first Black president, helped by Senator Ted Kennedy's dedication to it and House Speaker Nancy Pelosi's political skill. But administration of the Affordable Care Act ("Obamacare") was left largely in the hands of states and the insurance industry. The code words and attitudes continue to this day as Republicans call repeatedly to "repeal and replace Obamacare" and oppose Medicaid expansion in their states.

"While numerous studies show that uninsured rates have decreased sharply across the country under the ACA, and while Americans' favorable opinion of health care reform has been rising steadily, the law remains as politically divisive as ever. Since 2010, the ACA has seen more than 50 repeal attempts by a Republican-led House and a previous Supreme Court challenge in 2012. That case, *National Federation of Independent Business v Sebelius*, led to a milestone decision by the court upholding another crucial provision of the law—the individual mandate requiring most Americans to obtain 'minimum essential' health insurance starting in 2014." [NIH1]

However, 10 states still have not expanded Medicaid to increase health care coverage for low-income people. Seven of those states are in the deep South plus Texas. [KFF] States that expanded Medicaid have seen a rise the in the number of people covered, the quality of care, and the expansion of health care facilities. In the states that have not (especially in Texas): "One thing that all of the states with the highest hospital closures have in common is that their legislatures have all refused to expand Medicaid under Obama." [McGhee, pp 53-61]

In 2020, the pandemic laid bare the shortcomings of health care in general, and in marginalized communities in particular. The history of experimentation on Black people, the history of being denied quality care by white physicians, and lack of access to Black doctors and facilities in their communities led to distrust of the medical system and not getting care when needed. During the pandemic, this led to greater death rates among Black people, people of color, and Indigenous people: "The factors were numerous and interlacing: [they were] more likely to have to [leave]…home for work, but less likely to have health insurance; more likely to be deemed 'essential' but less likely to be treated…more likely to live in …still segregated areas…in crowded housing…. A study of one city found that the majority of infections came from situations where racism was driving higher exposure." [McGhee, p 278]

"Approximately 97.9 out of every 100,000 African Americans have died from COVID-19, a mortality rate that is a third higher than that for Latinos (64.7 per 100,000), and more than double than that for whites (46.6 per 100,000) and Asians (40.4 per 100,000). The overrepresentation of African Americans among confirmed COVID-19 cases and number of deaths underscores the fact that the coronavirus pandemic, far from being an equalizer, is amplifying or even worsening existing social inequalities tied to race, class, and access to the health care system." [NIH2]

So, the US remains the only first-world country that does not provide health care as a right for all citizens, and opposition to doing so continues with challenges to and limitations on the ACA that echo all the earlier controversies surrounding health care reform. And the roots of the opposition lie largely in southern, former Confederate states and ongoing racism. "Reforms to the way medicine is practiced and taught are also central to the effort to improve outcomes…. At the center of this work is a reckoning with systemic racism that is baked into the history of the American health system." [JHU]

## Health Care and the Wealth Gap

There are many barriers to quality health and mental health care: distrust of the system based on past abuses such as the Tuskegee experiments; the high costs of care and medications for a population that experiences education and income disadvantages; lower access to health insurance in their jobs; lower access to medical professionals and facilities because of housing limitations; lack of cultural sensitivity for providing effective care to Black people because models of care are based on white, middle-class people; and low numbers of Black providers – only 2% of US psychologists are Black. [McL] Only 5.7% of US physicians are Black, behind Asian (20.6%) and Hispanic (6.9%) physicians. [AAMC] Black people make up 13.6% of the US population [Census] So Black people can also face bias and discrimination by (largely white) care providers.

Clearly, these barriers can only feed into and broaden the wealth gap.

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## Why Are Reparations Needed? Education

In 1833, a *Harpers Weekly* article averred, “the alphabet is an abolitionist. If you would keep a people enslaved refuse to teach them to read.” [SAAM]

Indeed. Education in this country has long been considered the path to advancement, success, and wealth. But “[a]fter the slave revolt led by Nat Turner in 1831, all slave states except Maryland, Kentucky, and Tennessee passed laws against teaching slaves to read and write. For example, in 1831 and 1832 statutes were passed in Virginia prohibiting meetings to teach free blacks to read or write and instituting a fine of $10 – $100 for teaching enslaved blacks.” [SAAM]

After Emancipation, some educational opportunities opened up for Black people, but they were for Black people only; and almost 200 years later, the American educational system remains segregated.

### Post Civil War Reconstruction

During the Civil War, the Union Army created schools for Black soldiers, one of the first ways in which numbers of Black men were able to gain education. [AmExp] Under the Civil Rights Act of 1866, the Freedmen’s Bureau was created and authorized to establish public schools for formerly enslaved people (and for poor white people). The bureau created over 4,000 schools, educating more than 250,000 Black students. [Darity1, p 133] In addition, Black people also worked to create their own schools: “one of the critical definitions of freedom for black people, is the ability to get an education.” Education was crucial -- essential to combating racism and to surviving. [AmExp]

Through the Freedman’s Bureau combined with the efforts of Black churches, the first of a number of Historically Black Colleges and Universities (HBCU) were created, providing “educational opportunity for many African Americans who were once legally denied an education… and a nurturing environment to explore their collective identities and cultures. Today, HBCUs uphold a history of scholarship pursued by African Americans in the face of adversity.” [SNMAAHC1]

But racist attitudes persisted: the Freedmen’s Bureau was disbanded in 1870 and Reconstruction was ended in 1877. White, formerly Confederate landowners once again were in charge politically and put a system of segregated schools into law, ushering in Jim Crow and separate-but-equal education, a concept first codified in an 1850 Massachusetts Supreme Judicial Court ruling, *Roberts v. City of Boston* [Darity1, p 136137]

### Late 19th Century

In 1896, in the *Plessy v. Fergusion* ruling, the Supreme Court, relying on *Roberts v. City of Boston*, upheld a Louisiana law allowing “equal but separate accommodations for the

white and colored races." [NatArch2] "Although not an education case, *Plessy v. Ferguson* reified the Jim Crow system, which resulted in not only enabling white supremacist policies but also emboldening white supremacists themselves." [Darity1, p 139]

*Plessy* ensured that, in both the North and South, education would be segregated. "Communities legally relegated [Black Americans] into segregated, substandard neighborhoods and segregated, substandard schools that made it impossible for them to compete economically…. In the South, for most of the period between the Civil War and the 1960s, nearly all of the Black people who wanted to earn professional degrees…had to leave the region to do so, even as white immigrants attended state colleges in the former Confederacy that Black American tax dollars helped pay for." [Hannah-Jones, p 466]

And *Plessy* was a failure for schools, as well as the other accommodations it covered: it was in effect for almost 60 years before *Brown v. Board of Education* (1954) but there is "no evidence of a school system that was separate and equal. 'No one has nominated a community at any point in American history where that condition existed.'" [Darity1, p 141]

### Mid- to Late-20th Century

As with housing, the 1944 GI Bill did little to mitigate segregation and discrimination: "[it] paid the college tuition of hundreds of thousands of veterans, catapulting a generation of men into professional careers – but few Black veterans benefitted, as local administrators funneled most Black servicemen into segregated vocational schools." [McGhee, p22] Local administration by states varied between the north and south, but invariably reflected local attitudes resulting in varying degrees of de facto segregation throughout the country.

The 1954 *Brown v. Board of Education* Supreme Court ruling was a milestone, ending segregation under the law…. "[But] there was considerable resistance to the Supreme Court's ruling... In addition to the obvious disapproving segregationists were some constitutional scholars who felt that the decision went against legal tradition by relying heavily on data supplied by social scientists rather than precedent or established law. Supporters of judicial restraint believed the Court had overstepped its constitutional powers by essentially writing new law." [NatArch1]

Title IV, Desegregation of Public Education, of the Civil Rights Act of 1964 provided support and funds to desegregate schools. The 1965 Voting Rights Acts and the 1968 Civil Rights Act expanded protections. But the ruling "did not end segregated and unequal schools…it took court orders and at times federal troops to produce any real

integration…. Nevertheless, Black children remain [today] as segregated from white kids as they were in the early 1970s." [Hannah-Jones, p 467]

For example: "In 1968, about 77 percent of Black students and 55 percent of Latino students attended public schools that were more than half minority. In 2010, more than 40 years later, 74 percent of Black students and 80 percent of Latino students continue to attend public schools dominated by minority populations. The legal mandate of *Brown v. Board of Education* may be clear but factors such as income inequality and discriminatory housing patterns continue to perpetuate not only de facto educational segregation, but continuing disparities in the quality of education offered to children." [SNMAAHC2]

In addition, "Black children may experience harsher disciplinary treatment at racially segregated schools, part of the 'school-to-prison pipeline.'" [NIH] Furthermore, many schools districts are funded through property taxes. Clearly wealthier communities can raise more for their schools than poorer ones can. As we saw in housing and the growth of white suburbs, Black Americans remain more likely to reside in under-funded, under-resourced urban communities.

The damaging effects of segregation are demonstrable. As recently as 2022, an NIH study of "resegregated" schools (schools released from the *Brown v. Board of Education* ruling) showed: "School segregation was associated with worse outcomes on several measures of well-being among Black children, which may contribute to health inequities across the lifespan. These results highlight the need to promote school racial integration and support Black youth who are attending segregated schools." [NIH]

In response to ongoing educational discrimination in higher education and selective public exam schools (e.g., Boston Latin), affirmative action grew out of the 1960s and the Civil Rights movement. However, "[it] has never been a form of reparations … [and] has served instead as an antidiscrimination measure… for including a group that otherwise would be excluded unjustly." [Darity2, p 383]

But "[a] mere 14 years after affirmative action policies began to be used to right historical injustices and systemic racism in the United States, the first assault on affirmative action in college admissions was levied. One of the most significant affirmative action cases was Regents of the University of California v. Bakke (1978). Allan Bakke, a White applicant, challenged the University of California medical school's admissions policy, which set aside a specific number of seats for minority applicants." [EdTrust] While the Supreme Court upheld affirmative action, it ruled against setting quotas for minority students.

## The 21st Century

Since that time, more challenges to affirmative action have reached the Supreme Court.

The most recent (2023) are two cases against Harvard University and against the University of North Carolina at Chapel Hill, challenging the use of affirmative action and race-conscious college admissions. [EdTrust] In any case, “[i]nsofar as discrimination persists, affirmative action, while useful, clearly has not been sufficiently effective to eliminate it. … Affirmative action can get you through the door, but it does not provide you with restitution for having been kept out of the door in the past, nor does it assure that you will receive fair treatment after getting through the door…. In general, stopping an unjust practice is not compensation for the unjust practice.” [Darity2, p384]

The 2023 challenges were brought by Edward Blum, who “has been working toward the end of race-based admissions in higher education for years. He first brought the issue of affirmative action before the Supreme Court in 2012, with *Fisher v. University of Texas* — a case he ended up losing. Since then, [he] has founded a group called Students for Fair Admissions, which just won at the Supreme Court against Harvard and the University of North Carolina, in a decision that effectively ended race-based affirmative action policies in American college admissions.” [NYT1] Dissenting Justice Sonia Sotomayor said, “The court subverts the constitutional guarantee of equal protection by further entrenching racial inequality in education, the very foundation of our democratic government and pluralistic society….” [NYT2]

Besides these assaults on leveling the educational playing field for Black students, educational opportunities are being squeezed for all students. Student debt has soared to more than $1.7 trillion in federal and private student loans. “[T]uition has grown many times faster than income. The cost of college—and resulting debt—is higher in the United States than in almost all other wealthy countries, where higher education is often free or heavily subsidized. Meanwhile, U.S. states have pulled back funding for public universities and colleges in the wake of the Great Recession…. There is also a racial disparity in student borrowing that many experts say is problematic and the result of decades of systemic discrimination. Black college students generally take on more debt than white students, and they are more likely to struggle with loan repayment after graduating, in part because they typically have lower levels of family wealth. Black, Latinx, and American Indian students are all more likely to default on their loans than white students.” [CFR]

“For this reason, it is critically important that policymakers and legislators work to protect the use of race-conscious admissions policies across the country. If not, inequality will continue to persist, and the American higher education system will fail to serve those that could benefit the most.” [CAP20] Yet given the Supreme Court’s June 29, 2023 decision that Harvard's and UNC's admissions programs violated the Equal Protection Clause of the 14th Amendment, it is no longer worthwhile to ask policymakers and legislators to “protect the use of race-conscious admissions policies.” Such policies are now clearly illegal. Changing that reality requires a change in constitutional law, or a

contrary decision by a later Court. Policymakers should rather focus on non-race-based measures to diversify campuses. [ACLU]

But as Nikole Hannah-Jones reports the Supreme Court has ruled "almost exclusively ruled in favor of white people in so-called reverse-discrimination cases while severely narrowing the possibility for racial redress for Black Americans. Often, in these decisions, the court has used colorblindness as a rationale that dismisses both the particular history of racial disadvantage and its continuing disparities." [NYT3]

Despite setbacks and ongoing racism, Black Americans have made educational gains but "those gains have had virtually no effect on equalizing employment outcomes. Indeed, the significant racial disparities in unemployment that are observed at each level of education, across age cohorts, and among both men and women are the strongest evidence against the notion that education or skills differentials are responsible for the black-white unemployment gap." [EPI]

A New York Times article enumerates the areas of the education gap: [NYT4]

- "Joblessness remains higher among blacks than whites …and has been amazingly consistent — between 2 and 2.5 – for the 40 years"
- "Black unemployment rates are higher regardless of education, even among people with comparable levels of education."
- "The proportion of blacks getting a college degree has risen sharply over the last generation, [while] the proportion of whites doing the same has risen even more."
- "There have been advances… A rising proportion of the nation's white-collar professionals are African-American [but] Black people are underrepresented in high–income fields like business, law and medicine, and overrepresented in lower–income jobs like food preparation and driving."
- "The pay gap between white and black workers has widened over time."

It often feels like we are taking more steps backward than forward.

## Education and the Wealth Gap

Black Americans have aspired to education since before the Civil War, knowing it was a key path to advancement. To some extent it has been, but as we have seen, significant barriers remain in educational opportunities, costs, and indebtedness. In addition, Black Americans still face bias and discrimination in education, employment, and income, which directly affect their ability to accumulate wealth.

"The unemployment gap is virtually unchanged over the last 40 years. The income and wealth gaps have actually widened. So has the gap in educational attainment." [NYT4]
"For two people with similar incomes, the level of wealth they accumulate can vary widely, depending on whether they received an inheritance or other help from parents;

whether they had to take on student debts or other loans, and how aggressively they save and invest…." In fact, "the wealth gap is far wider than the income gap." [NYT4] So "the struggle for equality is far from over. As transformative as the Civil Rights Act of 1964 and its successors have been, the exclusion, exploitation, and discrimination that it targeted were deeply entrenched and have proved difficult to end." [LOC]

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## Why Are Reparations Needed? The Criminal Legal System

The Criminal Justice System has provided little justice to Black Americans across the centuries; it is more accurate to refer to it as the *criminal legal system*. Black Americans experience police brutality, and have little ability to find redress for it; they are arrested in numbers disproportionate to their presence in the population; prosecutors have tended to express conscious or unconscious bias in dealing with them; if they have jury trials they are confronted by few if any jurors of the same race, so they are disproportionally found guilty; they receive longer sentences than whites for the same offenses; they are more likely than white Americans to receive the death penalty and be executed.

These legal inequities confront other people of color in the United States, but as a consideration of whether reparations are merited for Black Americans, the focus here is on the legal experiences of Black Americans. A brief description of the early history of these experiences leads to the latter half of the twentieth century, when the criminal legal system of the present was created. Although there are signs that the tide has been turning towards a less inequitable system in the twenty-first century, the Black community still has to deal with the political decisions since the passing of the Civil Rights Act.

### Law and the Enslaved Population

Generally, we think of enslavement as a long, long period when, outside of the Northeast, Black Americans had no rights in the law. Their misdeeds were largely defined by and punished by those who owned them or their overseers. Owners did have, and might exercise, the right to send the person considered guilty for a local official to punish. [Hinton] Individual states had slave codes that differed in details, but all shared certain basic features. These codes were enforced by “all-white citizen patrols [who] possessed legal authority over the enslaved, and enforced the slave codes.” [Hinton]

The patrols raided homes of enslaved persons to ensure there were no illicit weapons or educational materials; dispersed slave meetings (especially forbidden: meetings after sunset and before sunrise), and patrolled outside plantations and towns checking whether any Black persons met had proof they had permission to be away from the plantation or could prove their freedom. “The vast majority of enslaved Africans were not formally incarcerated on criminal charges. Rather, local legal mechanisms and extralegal customs…prevailed.” [Hinton]

Though they had no rights in civil law, it’s been argued that some of enslaved persons had privileges which functioned as though they gave ownership. A common example: many worked small gardens or raised chickens or other animals to provide needed supplements to the limited diet they were allotted, or even to sell. These gardens

benefited the owners because gardeners fed themselves and their families—and were kept busy additional hours. [Demsas]

## Reconstruction: The Black Codes

In 1865 and 1866, after their loss of the Civil War, state legislatures in the formerly Confederate states replaced slave codes with the Black Codes. These codes acknowledged the new rights of slaves to marry, acquire and own property, make contracts, sue and be sued, testify in courts in cases involving persons of their own color. These rights did not all survive the later post-Reconstruction constitutions. The Black Codes "centerpiece was the attempt to stabilize the black work force and limit its options apart from plantation labor." [Foner, p 200] Henceforth, the state would enforce labor agreements and plantation discipline, punish those who refused to contract, and prevent whites from competing among themselves for Black workers. [Foner, pp 199-200]

The new apprenticeship laws were another way to compel labor. Orphans and children whose parents were considered unable to support them were bound out—sometimes to former owners—to guardians for whom they were unpaid labor. These were perhaps the most hated aspect of the Black Codes, hated by a people who had just acquired the right to establish families which no longer could be torn apart. [Foner, p 201]

## Convict Leasing

Laws against vagrancy were common, as another means to ensure the free were working. "[T]he idle, disorderly, and those who 'misspend what they earn'" were punished by fines or compelled to sign a labor contract for plantation labor. [Foner, p 200] Before long, if those found guilty could not pay the fine (and most could not) they would be leased to a plantation, or increasingly to a business of some kind involving hard physical labor. These Black convicts lived in labor camps, while white convicts were sent to penitentiaries. The leased convicts were the source of labor for the new railroad building of the south and its mines, as well as plantations. Convict leasing, which survived into the 1930s, and occasionally was used in the North, has been referred to as a new slavery. The 13$^{th}$ Amendment abolished slavery--except as punishment for crime. The work of convict laborers was brutally hard, and mortality was high. It has been said that few survived to the end of their ten-year lease. [Hinton]

Labor regulations and criminal law were enforced by a white militia and urban police, both of which often were composed of Confederate veterans, and both of which terrorized the freedmen as the former slave patrols had done. The judiciary, too, continued white. "Sheriffs, justices of the peace, and other local officials proved extremely reluctant to prosecute whites accused of crimes against blacks." [Foner, p 204] In these circumstances, it is not surprising that freedmen preferred the justice of the Freedmen's Bureau when it was available. However, the Freedmen's Bureau was both understaffed and underfunded during its short life (1865-1872). [Foner, p 143] The

Bureau tended to persuade the states' courts to recognize racial equality (doomed to fail, given the widespread Southern assumption of white supremacy and intention to see it continue) rather than develop their own court system, but while it existed, it did its best to help freedmen find justice. [Foner, p 149]

## Rights Given and Taken Away

The Civil Rights Act of 1866 was intended to counter the Black Codes and reverse the Supreme Court's Dred Scott decision of 1857, denying Black Americans the rights of citizens. The act defined citizens as born in the U.S. and declared it illegal to deny the rights of citizens to anyone (native Americans were excluded) because of race or color. The Bureau sought to enforce the act, but there was little interest or will in the ex-Confederate states to do so. Governors from the North and other "officials struggled to control increasingly violent and lawless groups of white supremacists in their states." [EJI, p 11] Much of the violence was directed against freedmen running for or elected to office, and political activism in general. These were the times when freedmen leaders were elected to high office in state and federal office, and freedmen were making the most of the opportunity to participate in self-government, despite the violence. [Foner, pp 352-356]

In 1870 and 1871, Congress passed the Enforcement Acts, which authorized people to take their cases to federal courts when their civil rights (to vote, hold office, serve on juries, and enjoy the equal protections of the laws) were violated, empowering the federal government to prosecute civil rights cases as crimes. Then in 1872, the U.S Supreme Court ruled that rights derived from state citizenship could only be tried in state courts. In 1876, the court ruled that the14th Amendment could protect a citizen from the actions of the state, not of an individual. Black Americans in the South were thus left without legal protection in the South, given the nature of state and local courts. In 1883, the Supreme Court ruled that the Civil Rights Act was unconstitutional when it imposed criminal penalties for racial discrimination in jury selection. The Court repeatedly acted against the rights and concerns of Black Southerners then, as in earlier and later years.

## After Reconstruction: the Jim Crow Laws

Already before the end of Reconstruction in 1877, white supremacists were firmly in control. After 1877, the Southern states altered their constitutions to disenfranchise Black Southerners. Voting rights were limited by poll taxes, literacy tests, and "grandfather" clauses intended to help only illiterate whites (if your grandfather had voted, you could vote even if you couldn't pass a literacy test).

The new state constitutions also codified segregation in the laws we call the Jim Crow laws. Public education was segregated throughout the South; interracial marriage- and even casual sexual relations—were forbidden. In the 1880s, more and more Jim Crow laws applied to more and more aspects of life, and not just in the South. Many of the

Jim Crow laws were enforced throughout the nation, spreading to the Midwest and North as Black Americans moved into cities. Social and leisure spaces were segregated, including public parks, theaters and restaurants, and amusement park cashiers' windows. Water fountains, building entrances, phone booths, elevators, cemeteries, hospitals, asylums, jails, and residential homes for the elderly all were segregated. Some schools used separate textbooks; there were separate reading rooms in libraries, or even separate libraries. Transportation was segregated, with separate waiting rooms, railroad cars, or sections of cars (or buses). Segregation was everywhere, perhaps most visibly in separate neighborhoods. [History]

Not every state had all of these laws, and the Southern states had far more than other parts of the country. From the 1880s to the 1960s, the whole country had laws supporting segregation in schools and public accommodations. [CRR, p 402] In Massachusetts, from 1705, interracial marriage and fornication was forbidden, though the law against interracial fornication was abolished in the 1860s. Public education was segregated by law, as were neighborhoods (rather by custom than law, except for covenants in deeds and red-lining). Most railway lines in the state were not segregated; a legal case against a few that were led to the ending of all segregation on trains. [Primary]

### Lynching

"In the eyes of white people, Black criminality was broadly defined. Anything Black people did to challenge the racial hierarchy could be seen as a crime, punished either by law or lawless lynchings." [1619, p 281]

Both the civil and the criminal legal systems after Reconstruction offered little assistance to Black citizens. The violence of white supremacists was rarely punished. Should white men be accused, and a case actually go to trial, white juries ordinarily let the guilty off. But for a Black person to accuse a white man of a crime would be likely to cause a lynch mob to move against the complainant, a member of their family, or just a person who happened in the way of the mob. Sheriffs and police ordinarily stood and watched the lynching, if they did not themselves participate.

The goal of lynching was to create terror. White accusations of a Black person were often of some sort of improper behavior toward or with a white woman. It might be as serious an accusation as rape, but it might equally well be of a polite action. The action didn't matter—and might not have actually occurred. The accusation was what mattered. A white mob gathered, seized the man involved, tortured, and finally killed him, perhaps by hanging or burning alive. If the Black man in question could not be found, a relative (male or female) or a passing neighbor would likely be seized, tortured, and killed in his stead. Tortures—often gruesome—and deaths—often intentionally lingering—were often public events, attended by families who might bring picnics. Accusation of killing of a white man, especially when of local importance, could bring out

the worst the mob could think of.  But lynch mobs didn't need a serious crime—or any crime—to gather. "African Americans frequently were lynched for non-criminal violations of social customs or racial expectations, such as speaking to white people with less respect or formality than observers believed was due." [EJI, p 29]

The Equal Justice Initiative has documented "4084 racial terror lynchings" in twelve Southern states between the end of Reconstruction in 1877 and 1950, which is at least 800 more lynchings in these states than previously reported. EJI has also "documented more than 300 racial terror lynchings in other states during this time period." [EJI, p 39] The NAACP has a different count, of 3,446 lynchings of Black people between 1882 and 1968. [NAACP] In addition to lynchings of individuals, there were attacks on entire communities in which many people were killed and buildings were burned. Both kinds of white violence against Blacks continued into the twentieth century.

## The Red Summer of 1919

The Red Summer of 1919 is an example of the continuity of lynching. The summer was "red" because of the amount of blood shed—mostly black. The better-known Tulsa Massacre two years later has been assessed as "driven largely by white hostility at African American prosperity" [Archives] and the Red Summer at least in part shared this causation. Its sources are listed as the Great Migration, causing white (and white unionist) fear of competition for jobs; the experience of African American veterans, who has been well-treated in Europe, then returned to disrespect and worse; a worldwide demand for cotton bringing unusual prosperity to Southern Black sharecroppers.

1919 was not, in general a good year: the Bolsheviks had taken over Russia, causing a "red scare"; the economy was up and down; there were many strikes. The NAACP was actively working for a federal law against lynching. [NAACP]

"In the Red Summer, there were at least 25 major riots and mob actions." [Waxman] Chicago saw six days of disorder, from July 27 to August 3.  In Omaha, a progressive mayor tried to protect an African American man arrested for supposed assault of a white woman; white mobs nearly killed the mayor, then seized the accused and lynched him. In Elaine, Arkansas, September 30 to October 1, for no known reason, a white mob went out into the fields and shot Black sharecroppers. It was never investigated; the number killed is not known. Newspaper accounts blamed the violence on black mobs and anarchist agitators, but in fact the mobs were white. Governments were slow to act, but ultimately the National Guard was called in to end the violence. [Waxman]

## The Professionalization of Policing

The professionalization of policing is attributed to August Vollmer (1876-1955), who brought new, scientifically based technologies to policing, and new ideas of organization. Having recently served in the Spanish-American War he hired other veterans and organized them like the military, adopting the kinds of tactics and

weaponry used against peoples in colonies and Native Americans. Vollmer, enforced the Jim Crow laws. He saw himself “conducting a war…against the enemies of society… mobsters, bootleggers, socialist agitators, strikers, union organizers, immigrants and Black people.” [Lepore]

Vollmer’s concept of policing continues in the aggressive policing used against Black Americans during the War on Crime and the War on Drugs in the second half of the twentieth century, and continuing today. Presidential policies focused on a war against crime, leading to federal involvement with crime. The War on Crime increasingly focused a war against drugs aimed especially, it would seem, at the Black urban population. [Alexander, p.55]

## The “War on Crime” and Black Urban Rebellions in the 1960s

President Johnson’s War on Crime was initiated after the 1964 passage of the Civil Rights Act. The War on Crime and its successor, Reagan’s War on Drugs, would undermine Johnson’s Great Society programs, his War on Poverty. The federal funding for social programs would instead be siphoned into policing and prisons. Black Americans suffered both from the decrease in social services and the aggressive policing of their communities. [Alexander, p.57] [Hinton]

Violent crime was rising in the 1960s. The American public was distressed by this as well as by media images of the violence in many American cities. White and Black Americans together protested against segregation in the South and primarily young white Americans protested against the War in Viet Nam.  The media provided vivid images of urban unrest between 1965 and 1968, including the Watts Riots in 1965 Los Angeles, and the 1968 Holy Week Uprising after the assassination of Martin Luther King, Jr., when “violent rebellions erupted in more than two hundred cities.” [1619, p 117] To many Americans, social foundations seemed crumbling; violent crime—in which they classed the urban risings—was a sign of this. Both the worries of the powerful and the fears of the public led to Johnson’s War on Crime.

Johnson’s administration in the Omnibus Crime Control and Safe Streets Act of 1968 initiated the federal provision of military equipment and created the Department of Justice’s Law Enforcement Assistance Administration, which had more and more funding for police departments ($400 million for over 80,000 crime-control projects) while there was less and less funding for social programs. [Lepore] Johnson sought “to expand supervision and control into low-income urban communities,” mainly minority. [Hinton] Johnson’s Kerner Commission report had pointed to segregation as the cause of the risings, but the public and conservative politicians saw these as evidence of the tendency of Black Americans to commit crimes. [1619, p 437]

## “Tough on Crime” Policies and Their Impact on Black Americans

To be “tough on crime” became an appealing slogan for conservative politicians. With presidential urging, Congress repeatedly lengthened prison sentences and added new crimes. Nixon, and after him Reagan, urged arrests for petty crimes, believing that more serious crimes would grow from them. Black urban residents, suffering crime disproportionately, were initially pleased with the harsher sentences of the War on Crime. [Forman]

But racism underlay Reagan’s War on Drugs. To attract the support of Southerners angry with Democrats after Johnson’s Civil Rights Act, as well as working-class whites, whose racist anxieties were linked to a fear of Black workers as threats to their jobs, Nixon started talking about a “war on drugs.” Reagan’s War on Drugs, announced in October 1982, had similar political goals. Democrat Clinton took over the politically successful War on Drugs, seeking, successfully, to be tougher on crime than his Republican predecessors. [Alexander, p 44]

“[U]ntil the 1970s, Black Americans made up roughly a third of the prison population; in the 70s that grew from 27.4% in 1970 to more than 38% in 1977. [Hinton] “Until the mid-1980s, the criminal justice system was marginal to communities of color. While young minority men with little schooling have always had relatively high rates of incarceration, before the 1980s the penal system was not a dominant presence in the disadvantaged neighborhoods.” [Alexander, p 188] With the War on Drugs, this began to change. “From 1926 through 1986 the recorded black percentage among admissions to State and Federal prisons more than doubled, from 21 percent in 1926 to 44 percent in 1986. This growth cannot be explained by general population trends. The number of blacks relative to the general population was about the same in both years, 10 percent in 1926 and 12 percent in 1986.” [Langan]

Numbers of white and Black Americans incarcerated between 1926 and 1986 are given for Massachusetts. Numbers varied a lot from state to state; the southern states have higher totals and higher numbers of Black Americans. The figures for the 1970s reflect the War on Crime; the large increase in the 1980s is evident. [Langan]

Numbers of White and Black Americans Admitted to State and Federal Institutions In Massachusetts, 1926-1986 (numbers of “others” and of “no race given” are excluded)

| Date | Totals | White Americans | Black Americans |
|---|---|---|---|
| 1926 | 826 | 791 | 30 |
| 1946 | 678 | 590 | 87 |
| 1956 | 727 | 667 | 60 |
| 1960 | 746 | 611 | 135 |
| 1970 | 804 | 551 | 253 |
| 1978 | 862 | 529 | 284 |

| Date | Totals | White Americans | Black Americans |
|---|---|---|---|
| 1980 | 1,728 | 1,154 | 541 |
| 1982 | 2,159 | 1,776 | 748 |
| 1984 | 1,800 | 1,107 | 446 |
| 1986 | 2,067 | 1,236 | 559 |

## The Drug War

Into the 1980s, around the country, drug use had been a minor crime that would involve a maximum of one year in prison. [Alexander, p 54] Nelson Rockefeller, New York's Republican governor, had seen drugs as a social problem, not a criminal one, supporting drug rehabilitation, job training, and housing as solutions. But in “the 1970s. New York City was battling a heroin epidemic.” [Mann] President Richard Nixon declared a national “war on drugs,” and Rockefeller changed his mind. In 1973, the governor called for “mandatory prison sentences of 15 years to life for drug dealers and addicts — even those caught with small amounts of marijuana. [Mann]

The legislature approved his idea, and other states and the federal government followed suit. “[P]rosecutors in New York realized that the laws were doing unexpected and troubling things. White people were using a lot of drugs in the 1970s and committing a lot of crimes, yet the people being arrested and sent to prison under the Rockefeller laws came almost entirely from poor black and Hispanic neighborhoods.” [Mann]

## High Proportion of Black Americans Incarcerated

“Good evidence indicates that racial and ethnic groups use and sell drugs proportionally to their representation in the population; so about 13 percent of drug users and sellers are African Americans, about 17 percent are from the various Latino groups, and approximately 65 percent are whites (whites tend to sell to whites; blacks to blacks). But, more than 50 percent of those imprisoned for drug sales or possession are people of color.” [Crutchfield]

Far more Black than white Americans have been arrested, convicted, and incarcerated for drug offenses: not because they sold or used more drugs than the whites did, but because Black neighborhoods were closely patrolled by police who often considered Black Americans inferiors, prone to crime. Middle-class white neighborhoods did not share that experience.

Reagan’s 1986 Anti-Drug Abuse Act had mandated harsh minimum sentences for a variety of drug offenses. Initial sentences for cocaine punished offenses for crack cocaine 100 times than for powder cocaine. Crack was the form of cocaine African Americans tended to use and sell; powder was the form white Americans used and sold. Selling 500 grams of powder would bring a sentence of five years without parole: the same sentence for selling five grams of crack. [Alexander, p 112] Simply for possession of cocaine base, with no intention to sell, the mandatory minimum after 1988 was five

years. [Alexander, p 53] The consequences for African Americans? “When the War on Drugs gained full steam in the mid-eighties, prison admissions for African Americans skyrocketed, nearly quadrupling in three years, and then increasing steadily until it reached in 2000 a level *more than twenty-six times* the level of 1983.” [Alexander, p 98]

## Continuing Emphasis on Punishment

Clinton’s 1994 Violent Crime Control and Law Enforcement Act included his “three strikes and you’re out” policy, which meant sentences of life without parole after a third offense. It also further lengthened prison sentences in the sentencing guidelines, added new crimes, and provided the death penalty for more crimes. The Congressional Black Caucus “introduced an alternative bill, that included investments in prevention and alternatives to incarceration, and devoted $2 billion more to drug treatment and $3 billion more to early intervention programs.” [Eisen] It went nowhere. The government encouraged states toward ever more punitive criminal justice measures, to increase arrests, prosecution, and incarcerations.

Nixon in 1972 had begun the expansion of the U.S prison system, necessitated by the increase in incarceration. Clinton encouraged prison-building further, giving incentive grants to build and expand more prisons to states that adopted his Truth-in-Sentencing, which required that the incarcerated served 85% of their sentence. [CRR, p 404] Prison construction rose 43% between 1990 and 2005. For a period in the 1990s, a new prison opened every 15 days on average. [Eisen] By 2016, 18 states were spending more on prisons than on colleges. [Lepore]

“In 2006, one in every thirty-one U.S. residents was under some form of correctional supervision, such as in prison or jail, or on probation or parole.” Black American men “experienced the highest imprisonment rate of all racial groups, male or female. It was 6.5 times the rate of white males and 2.5 times that of Hispanic males. In the middle of 2006 one in fifteen black men over the age of eighteen were behind bars as were one in nine black men aged twenty to thirty-four. The imprisonment rate of African American women looked little better. It was almost double that of Hispanic women and three times the rate of white women.” [Thompson]

Mass incarceration “is largely confined to the poorer, less educated segment of the African American community… mainly affecting high school dropouts.” A high school dropout had a 59% chance of going to prison between 1979 and 1999. [Forman]

Black Americans are over-represented in adult and juvenile incarceration, solitary confinement, and executions. In 2019, they were 14% of the total U.S. population but 33% of the total prison population and 46% of those who had served at least ten years. In some areas of the nation, an even larger percent of Black Americans had served over fifteen years. [Ghandnoosh] “African American men who commit the same crimes as white men are given prison sentences that are about 20% longer even after controlling for prior criminal history.” [CRR, p 412] They also receive a disproportionate number of

death sentences. In the twenty-seven states with death penalties, African American men "are overrepresented in the people federal and state governments execute." [CRR, p 413]

Since 2006, incarceration rates for all Americans have fallen by 17%, while that for Black Americans has dropped most, by 34%. Yet Black inmates still outnumber white Americans in the prison populations. In 2018, Black adults were 12% of the U.S. population, but 33% of the prison population. In contrast, white adults were 63% of the population but 30% of the prison population. [Gramlich]

## The Cost of Incarceration for the Ex-Offender

The consequences of incarceration continue after release. While incarcerated, ex-offenders are unlikely to have received help for any of the problems they are likely to have brought with them: addiction to drugs or alcohol; quite possibly mental problems ("prisons are dumping grounds… for those who have mental health issues"); lack of a high school degree, and perhaps functional illiteracy. Medical help in prisons tends to be substandard, so they may be released with worsened or new health problems. [Crutchfield]

Moreover, the ex-offender will suffer the "collateral consequences" of incarceration, whether determined by law or social custom. These consequences, some of which may vary from state to state, are many and harmful. They may be denied public housing, and if they are able to move into it, by law, they and family members will be evicted if the ex-offender or any family member or guest is involved in drug activity in public housing or near it. By law, they lose access to welfare benefits, college loans, and grants. They lose the right to serve on a jury or to vote. [Crutchfield]

There are social as well as legal consequences. Ex-offenders are likely to have a great deal of trouble finding a job, as employers tend to be wary of ex-offenders. Moreover, if they go home again, they are likely to be living in a disadvantaged neighborhood, where jobs are scarce. They may have lost access to their children and their intimate relationships may not have survived the years away. [Crutchfield] "Upon release from prison, people are typically saddled with large debts." [Alexander, pp 154-157] The situation of an ex-offender is dire. "The collateral consequences that accrue to imprisoned people even after their sentence is completed… actually [cause] increasing crime." [Crutchfield]

## Conclusion

The injustice in the "criminal justice" system is why the Legislative Action Committee of the Massachusetts League of Women Voters refers instead to the "criminal legal" system, as do many of the researchers studied. The system requires thorough reform before it can truly deliver justice to the minority population of the U.S., especially to Black Americans. In the last two decades, increasing research has shown the need for

many changes: those regarding bail, parole, and treatment of youth all could also have been included in this discussion. The tide may be turning.

### The Turning Tide: Rethinking "Tough on Crime"

Recent research has brought increasing recognition that toughness on crime is not as successful as was hoped in decreasing crime rates. "High incarceration rates have little impact on violence and crime." The U.S has the highest rate of incarceration in the world, yet its crime rate is comparable to those of nations who incarcerate a much smaller proportion of their populations. [Prison] Indeed, "in [U.S.] states where prison rates have fallen, crime rates have fallen as well." [Eisen]

### The Turning Tide: Awareness of Racial Bias

The long debate whether "high minority incarceration is a consequence of differential involvement in criminal behavior or a biased criminal justice system" has led many to agree that though there is more crime in minority communities, "people of color are overrepresented in prisons and jails." [Crutchfield]

In the last few decades, awareness of the racial bias that runs throughout the criminal legal system has increased, as have the suggestions of ways to reform the system. Reducing racial bias (often implicit) is an important goal, not only for police, but also for those at every stage of the criminal legal system: prosecutors, jurors, judges, all court personnel—and prison staff and parole boards. [HarmReport, pp 94-95] As one indication of movement in this direction, in 2002, The Juvenile Delinquency and Prevention Act of 1974 was amended to require The Office of Juvenile Delinquency and Prevention of the U.S. Department of Justice to address the disproportionate numbers of minority youths' contacts with the juvenile justice system. [OJJDP]

"Biased criminal justice policies and practices exacerbate the over-representation of Black Americans among those serving lengthy prison terms. This happens through mechanisms such as racial disparities in pretrial detention, implicit bias in prosecutorial charging decisions and plea offers, sentencing laws, and policies that prolong prison terms for people with criminal history and biased parole decision-making." [Ghandnoosh]

The high U.S. incarceration rates are not a rational response to high crime rates. Instead, they represent the aftermath of racist policies like the 'war on drugs' as well as politically expedient responses to public fears and perceptions about crime and violence." [Prison]

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## Why Are Reparations **Not** Needed? Against Reparations

Both support for and opposition to the idea of reparations for the immense harms of enslavement and its aftereffects are not new. This section focuses on the arguments against reparations written or spoken in the last 25 years.

The most recent period in which reparations have been actively discussed, starting in 1968, saw the founding of several new organizations including N'COBRA, an important reparations activist organization, (in 1987), and the 1989 beginning of the campaign of Congressman John Conyers, Jr., for a bill to establish a Commission to study "the institution of slavery, subsequently de jure and de facto racial and economic discrimination against African Americans and the impact of those forces on living African Americans." [HR40] [Winbush, pp xxii-xxiv; p 332]

In 2000, Randall Robinson's best-selling *The Debt, What America Owes to Blacks*, spread the reparations debate to a wider public. References to *The Debt* run throughout many of the essays, pro and con, that Winbush collected. [Williams, p. 168] [Hitchens, p.173] [McWhorter, p. 180] Fourteen years after *The Debt,* "The Case for Reparations," Ta-Nehisi Coates' 2014 article in *The Atlantic,* similarly increased interest in the topic. [Coates] Then in 2019, interest was further sparked when Congressman Conyers' H.R. 40 bill finally achieved a hearing. At the hearing, Ta-Nehisi Coates spoke in favor of the bill; Coleman Hughes spoke against it.

What are the arguments against reparations that have been expressed in the last two decades? Perhaps the best place to start is in 2019, on the day before H.R. 40 was finally to receive a hearing in the House Judiciary Committee.

On the day before the hearing, to be held on June 19, 2019, Senate Majority Leader Mitch McConnell was asked his opinion of reparations for the descendants of the enslaved. As reported on CNN:

"I don't think reparations for something that happened 150 years ago for whom none of us currently living are responsible is a good idea," the Kentucky Republican told reporters in response to a question about whether reparations should be paid or a public apology should be made by Congress or the President.

"We've tried to deal with our original sin of slavery by fighting a civil war, by passing landmark civil rights legislation. We elected an African American president," he said…

"I think we're always a work in progress in this country but no one currently alive was responsible for that and I don't think we should be trying to figure out how to compensate for it." [CNN1]

McConnell's comments contain two frequently used arguments against reparations: what Alfred Brophy in his list of the main arguments referred to as "those asked to pay have no liability" and "compensation has been made." [Brophy, p 1202]

## The Main Arguments Against Reparations

Alfred L**.** Brophy, in an excellent 2004 essay, "The Cultural War Over Slavery," identified five main arguments [Brophy, p 1202]:

1. "Those asked to pay have no liability"
2. "Compensation has been made"
3. "Compensation is immoral or was never due"
4. "Compensation is impracticable or politically unworkable"
5. "Reparations are divisive and focus attention on the past rather than the future"

### Those Asked to Pay Have No Liability

Brophy wrote that "It appears that the argument that has gained the most attention—and is advanced most seriously against reparations—is that the people currently asked to pay had nothing to do with the injustices of the past." [Brophy, p 1202]

The argument appears in two main versions: the first, that many of those who would be asked to pay taxes to contribute to reparations have no responsibility for the evils of slavery, since they didn't have ancestors living in the US during the period of enslavement. This group would consist of recent immigrants as well as the descendants of immigrants who came to this country among the waves arriving in the late 19$^{th}$ and early 20$^{th}$ centuries.

Armitage Williams asked "Should [the descendants] of those who immigrated to this country after the ante-bellum period still have their tax dollars funneled into reparations?' [Williams, p 170] Point 4 in David Horowitz's controversy-stirring "Ten Reasons Why Reparations for Blacks is a Bad Idea for Blacks - and Racist Too" is "America Today is a Multi-Ethnic Nation and Most Americans Have No Connection (Direct or Indirect) to Slavery." [Horowitz] Horowitz goes on to refer only to immigrants, yet there is another group which it would be even more unfair to tax: African Americans. Eizenstat points out "All Americans would have to bear the burden of reparations, perversely including many of the intended beneficiaries." [Eizenstat]

The second argument about Americans having no liability to pay is based on the long passage of time since Emancipation. ProCon provides as its first Con "No one currently living is responsible for righting the wrongs committed by long dead slaveowners." [ProCon] As Majority Leader McConnell said: "I don't think reparations for something

that happened 150 years ago for whom none of us currently living are responsible is a good idea."

Solomon Green wove taxes and time together in 2019: "Even if the stain of slavery still lingers to this day, any slave owner is long dead, and so are the people who were enslaved. So why should whites living today, who have never owned slaves and are generations removed from any slave owning ancestor, be punished for the transgressions they did not commit? Our justice system—and accompanying moral philosophies—wouldn't dream of punishing people for the crimes of others, so why should our public policy?" [Green]

Coleman Hughes, in his comments at the hearing for H.R. 40, noted that the time when reparations were deserved is in the past: "What we should do is pay reparations to black Americans who actually grew up under Jim Crow and were directly harmed by second-class citizenship, people like my grandparents." [Hughes]

Molly Secours presents what she sees as the responses of white Americans, "who would rather not talk about race, reparations, and white privilege." They include four of

Brophy's five arguments reduced to their simplest. "The Big Five" include "My family didn't own slaves" and "I'm not a racist" (no liability/no obligation); "Reparations is only going to divide us more," and "Blacks receive preferential treatment. What about me?" (both comments focusing on the divisiveness of reparation) and finally: "Slavery is over. Let's move on and forget about the past." [Secours, pp 286-291]

Brophy points out that for many, underneath the "no liability" argument is the widely held American belief that "they are where they are today because of their own hard work and innate talent, rather than the good fortune of their birth." [Brophy, p 1204]

A variation of the "no liability" argument is to argue that as "antireparationists frequently maintain …the current inequality in wealth is due to black culture, not the legacy of slavery." [Brophy, p 1205] For this argument, the responsibility for their conditions would be Blacks alone. This is not just a white argument; Black authors too can be found lamenting the disappearance of past values**.** The importance of personal responsibility is emphasized**,** for example, by Armitage Williams, recalling "As a child growing up on a farm, I was taught that personal responsibility was the lever that moved the world." [Williams, p. 170] To Shelby Steele, "the demand for reparations is yet another demand for white responsibility when today's problem is a failure of black responsibility." [Steele, p.197]

### Compensation Has Been Made

Conservative theorist David Horowitz, in one of the most frequently cited criticisms of the idea of reparations, gave "Reparations to African Americans Have Already Been

Paid" as the eighth of his "Ten Reasons." Horowitz comments "Since the passage of the Civil Rights Act and the advent of the Great Society in1965, trillions of dollars in transfer payments have been made to African Americans in the form of welfare benefits and racial preferences (in contracts, job placements and educational admissions) --all under the rationale of redressing historic racial grievances…If trillion dollar restitutions and a wholesale rewriting of American law (in order to accommodate racial preferences) for African Americans is not enough to achieve a 'healing,' what will?" Horowitz, like the following authors, was responding to Randall Robinson's influential *The Debt, What America Owes to Blacks* (2000). [Horowitz]

Unlike Horowitz, other authors, like Armstrong Williams, acknowledge that "there is no shortage of genuine problems…but a great deal of the inequity has been overcome." [Williams, pp 168-169]. Williams, who referred to Justice Clarence Thomas as his mentor, writes a nationally syndicated conservative newspaper column. In "Presumed Victims" Williams emphasized that "minorities in this country are by no means living in a state of static socioeconomic despair."

John McWhorter, responding to Robinson's *The Debt*, acknowledges in "Against Reparations," that "nobody can deny that racism still exists in America," [183] but "for almost forty years America has been granting blacks what any outside observer would rightly call reparations." He emphasized Lyndon Johnson's programs, "a huge and historic expansion of welfare," and affirmative action "a reparative program if there ever was one." [McWhorter, pp 191-192] This argument is still alive.

Richard Epstein in a 2014 critique of Ta-Nehisi Coates's "A Case for Reparations," views Coates as overlooking such contributions to the improvement of African American life as the civil rights legislation and "the extensive affirmative action programs, both public and private, that have gained traction in the post–Civil Rights period." [Epstein]

### Compensation Is Immoral or Was Never Due: Philosophical or Moral Objections

Several of the conservative authors speak in terms of a philosophical opposition to reparations. Solomon Green, for example, writes "Our justice system—and accompanying moral philosophies—wouldn't dream of punishing people for the crimes of others, so why should our public policy?" [Green] Epstein's libertarianism leads him to recommend: "Rather than speaking of reparations, we should consider the many constructive steps that could, and should, be taken right now as part of our ongoing social commitments to black Americans…Enforcing the rule of law, voluntary help, and the removal of barriers to entry to the marketplace are libertarian remedies for such wrongs. Once our policymakers and public intellectuals realize this fact, we will come one step closer to undoing the sins of the American past. Confessions of collective guilt and national apologies just won't cut it." [Epstein]

For a number of writers, the concept of reparations causes victimization. Armitage Williams emphasizes the significance of victimization by entitling his anti-reparations essay "*Presumed Victims*." "The reparations movement, at bottom, encourages minorities to believe that they are really lost souls.…Again, as an American black, I find this stereotype of failure not only personally insulting, but also to be radically destabilizing…After all, what need is there for individual striving when it is plainly understood that all the difficulties blacks suffer are the direct indisputable result of incidents that occurred centuries ago." [Williams, pp 166-167]

Coleman Hughes, a student at Columbia University influenced by faculty member John McWhorter, spoke at the hearing on H.R. 40: "Reparations, by definition, are only given to victims. So the moment you give me reparations, you've made me into a victim without my consent."

Shelby Steele's essay title contains the phrase "Reparations enshrine Victimhood, Dishonoring our Ancestors." Steele, a research fellow at the Hoover Institution, blamed both the liberal programs of the 1960s and later for the contemporary problems of Black society and Black culture itself. "We fought for welfare programs that only subsidized human inertia, for cultural approaches to education that stagnated skill development in our young, and for affirmative-action programs that removed the incentive to excellence in our best and brightest…And now the demand for reparations is yet another demand for white responsibility when today's problem is a failure of black responsibility… An honest black leadership would portray our victimization as only a condition we faced, and nurture a black identity around the ingenuity by which we overcame it." [Steele, pp 197-199]

Williams refers to reparations as "personally insulting" and this view of reparations as insulting appears in more recent comments. [Williams, p. 167] Coleman Hughes argued during the 2019 hearing that reparations "would insult many black Americans by putting a price on the suffering of their ancestors." [Hughes]

Robert L. Woodson, Sr., has asserted that "The entire issue of reparations debases the determination and achievement of blacks throughout history who managed to prosper in the midst of virulent racial hostility. Reparations assumes that the fate of black America can be determined by what white Americans do or fail to do. When blacks in America were in the grip of Jim Crow laws, had no political representation, and suffered gross income disparities compared to whites, we managed to maintain stable families, build hotels, create insurance companies, and own and operate our own businesses.

"Those patronizing voices of whites who seek to save us from ourselves, and black "spokespersons" who embrace an agenda of racial grievance and an identity of victimization, should stand aside." [Woodson]

### Compensation Is Impracticable or Politically Unworkable

In October 2019, four months after the H.R. 40 hearing, Stuart E. Eizenstat published "What Holocaust Restitution Taught Me About Slavery Reparations."

"Reparations in the form of cash payments to the descendants of slavery are not the way to right this grievous wrong [of enslavement.] I write this having spent decades of my life negotiating more than $17 billion in reparations for Holocaust survivors…I learned…that Reparations are complicated, contentious and messy, and work best when the crime was recent and the direct victims are still alive. Based on my experience, I believe that trying to repay descendants of slaves could end up causing more problems than reparations would seek to solve and that there are better ways to end racial disparities." [Eizenstat]

Arguing against Coates, Epstein points out the lack of a good model, given the distance between original harm and proposed reparations. The models most cited, the reparations given to the Japanese Americans interned during World War II and those given by the German government to both individual Jewish survivors of the Holocaust and the new state of Israel, are not really models because the cases are so different. Both were given to living survivors (or the state which housed many survivors) relatively soon after the evils inflicted upon them. These cases cannot be models for reparations paid to the remote descendants of the enslaved. [Epstein]

David Frum wrote "The impossibility of reparations for slavery" for *The Atlantic* in June, 2019, in answer to Ta-Nehisi Coates' "The Case for Reparations" in the same journal in May. It is a short article, focused on the idea that reparations would experience difficulties similar to those affirmative action encountered. It would be rapidly expanded to other minorities; the problem of eligibility would be "more explosive" than with affirmative action because the benefits will be so much greater. It would be likely to have all sorts of unexpected and unfortunate side effects. "The program will work severe inequities …When government spends money on complex programs, the people who provide the service usually end up with much more sway over the spending than the program's intended beneficiaries." And lastly "the legitimacy of the project will rapidly fade." Coates does not provide details of how a reparations program would work; Frum believes "committing yourself to a solution before you have any idea whether such a solution is workable is not a responsible reaction to America's racial dilemmas." [Frum]

The challenges of eligibility are frequently mentioned. Those who cannot prove their descent from the enslaved because "slave records are flawed and far from complete" will be discriminated against. [Eizenstat] And if a wider group than the descendants of the enslaved are being considered, who will be considered eligible? "Does a mixed-race person qualify? How mixed? What about recent immigrants from Africa or the West Indies?" [Frum]. How is "black" to be defined: "Are we talking about giving reparations to

all black people? If so, a consensus must be met on what a 'black person' is. There have been multiple definitions put forward, from the 'one drop rule' to being visually identifiable as 'black' to various proposed percentages of black ancestry." [Green]

Not least of the factors that make compensation impracticable or politically unworkable is cost. Various calculations have been made. (See the *What Reparations Could Be Given* section of this report) and they are all huge. Eizenstat refers to a "range from about $500 billion to as high as $17 trillion, which is more than three times current annual federal spending…Such an expensive, taxpayer-funded program stands little to no chance of being enacted." [Eizenstat]

Reparations are "something that everyone knows in advance will not be given …No way are millions of white, Asian, and Hispanic Americans going to pay reparations for something that happened before their ancestors ever set foot on American Soil." [Sowell] And there are Black opponents of reparations, also. Green refers to "more than one-third of blacks opposing reparations—myself included." [Green]

### Reparations Are Divisive and Focus Attention on the Past Rather than the Future

The idea that providing reparations would intensify racial divisions is widely held, at least among antireparationists  of the last decade.

"There are significant costs to reparations. They may tend to divide people along racial lines, for recalling past tragedies are, indeed, painful. Even more than recalling past tragedies, however, reparations will require the government to draw further lines on the basis of race…" [Brophy, p 1211]

"Reparations could seriously inflame racial tensions, stoking the resentment of nonblack citizens who would feel their needs for government assistance were being ignored in a rapidly changing, dislocating economy….A government program white citizens perceive to be helping African Americans at their expense, for a crime they did not commit, would only push them further from understanding racism in America." [Eizenstat]

For Solomon Green and Coleman Hughes, both young, well-educated black men have similar responses to the divisiveness of reparations. Green comments "more pragmatically, there is the risk of driving further racial resentment in the United States, given that opinions on reparations are sharply divided along racial and political lines." [Green] "If we were to pay reparations today, we would only divide the country further." [Hughes]

"And again, back to the point on promoting further division in our already polarized nation: Republicans and Democrats are experiencing rising levels of antipathy for each other. Although studies vary somewhat, according to the widely cited 2016 Marist Poll,

81% of Whites do not support cash reparations, while 58% of Blacks support them. The last thing our great nation needs is more division." [Green]

Brophy's last main argument against reparations suggests that looking to reparations focuses society on the past. The following thinkers critical of reparations look to the present, seek to deal with the ills of today, not of decades, even centuries ago

Brophy notes that "There is one question that is rarely discussed in antireparationist literature…. Are reparations the best way to spend society's limited resource? For there may be better uses for the money… Perhaps reparations should focus on the people who are most in need right now and in that formulation, it looks less like reparation and more like a Great Society program to lift everyone." [Brophy, pp 1210-1211]

Brophy refers to this question of "the best way to spend society's limited resources" as being "rarely discussed" but the passages that follow suggest that is being asked more frequently nowadays.

Coleman Hughes, speaking in 2019 at the hearing on H.R. 40: The nation should have paid reparations to the freed slaves, but it didn't. Now "Our desire to fix the past compromises our ability to fix the present…. Black people don't need another apology. We need safer neighborhoods and better schools. We need a less punitive criminal justice system. We need affordable health care. And none of those things can be achieved through reparations for slavery."

Epstein provides a conservative list of programs he prefers to reparations: "Rather than speaking of reparations, we should consider the many constructive steps that could, and should, be taken right now as part of our ongoing social commitments to black Americans." His suggestions are libertarian ones, like charter schools and reduced business regulations. "Enforcing the rule of law, voluntary help, and the removal of barriers to entry to the marketplace are libertarian remedies for such wrongs. Once our policymakers and public intellectuals realize this fact, we will come one step closer to undoing the sins of the American past. Confessions of collective guilt and national apologies just won't cut it."

Eizenstat, on the contrary, proposes what we might call a traditional program: "There are better ways to promote the healing this country needs than a formal reparations program. Most feasible and urgent would be committing the nation to reducing inequality in income and wealth by making targeted and thoughtful investments to lift up both low-income communities and communities of color." He also proposes more funding "for the historically black colleges and black entrepreneurs," "stricter enforcement of discriminatory lending practices," "strengthening the 1965 Voting Rights Act," and so on, with a proposal like those of N'COBRA and NAARC discussed in "*What*

*Reparations Could Be Provided."* It may not be easy to pass such programs "But I believe that politicians are much more likely to push for—and Americans to accept—these efforts than cash payments for descendants of slaves." [Eizenstat]

David Frum, provides a list that in some respects mirrors Coleman Hughes's ideas, redefining reparations. "If *reparations* means intensifying the nation's commitment to equal opportunity for all its people—and most especially for the descendants of those once enslaved—then (again) let's have reparations. Better schools, more jobs, some form of universal health coverage, an immigration policy that does not exert endless downward pressure on the wages of America's least skilled workers, improved nutrition especially in early childhood, higher taxes on alcohol, more effective and less punitive enforcement of drug laws—there's a program of group betterment awaiting the right advocates at the right time." [Frum]

Hughes urges in his TED talk that we should focus on class, not race, to heal the divides. "Class is almost always a better proxy for disadvantage than race;" "class based policies are more popular." Focusing on class will make possible the creation of "the political coalitions required to solve the problems facing black people today." "If you care about fighting racism… support class-based policy." [TED]

An anecdote involving Bayard Rustin's response to President Johnson shares Coleman Hughes' perspective: "After his speech, Johnson convened a group of civil-rights leaders, including the esteemed A. Philip Randolph and Bayard Rustin, to address the 'ancient brutality.' In a strategy paper, they agreed with the president that 'Negro poverty is a special, and particularly destructive, form of American poverty.' But when it came to specifically addressing the 'particularly destructive,' Rustin's group demurred, preferring to advance programs that addressed 'all the poor, black and white.'" [Coates]

### The Polls

What information do the polls give us about the public's reasons for their opposition to reparations for the descendants of enslaved people? The UMass polls gave respondents five reasons for opposition to reparations. Were they too expensive? Did the descendants of the enslaved not deserve them? Were African Americans treated equally today, so reparations weren't needed? Would it be impossible to place monetary value on slavery's impact? Would reparations be too difficult to administer? In the 2024 poll, the responses to the first of the polls, in early 2021, and the 2024 poll were compared. [UMass2]

The poll director, Tatishe Nteta, was surprised that the cost of reparations was selected least often; difficulty of administration was selected more frequently by whites and African Americans. [UMass1]

| Too expensive | 2021 | 2024 | Difficulty of Administration | 2021 | 2024 |
|---|---|---|---|---|---|
| | | | | | |
| Whites | 6% | 11% | Whites | 11% | 15% |
| African Americans | 14% | 14% | African Americans | 15% | 20% |
| Latinos | 6% | 17% | Latinos | 23% | 10% |
| Asians | 7% | 17% | Asians | 17% | 16% |

The arguments against reparations that were more frequently selected were:

| Not deserving | 2021 | 2024 | Impossible to place monetary value | 2021 | 2024 |
|---|---|---|---|---|---|
| | | | | | |
| Whites | 39% | 29% | Whites | 25% | 24% |
| African Americans | 17% | 15% | African Americans | 43% | 44% |
| Latinos | 26% | 27% | Latinos | 27 | 22% |
| Asians | 76% | 22% | Asians | 0% | 40% |

“Not deserving” means that the descendants of enslaved African Americans do not deserve to receive reparations for the sufferings of their ancestors. But why? For some respondents, this probably represented Brophy’s “compensation has been paid,” the ideas described above that the position of African Americans in American society has improved to the point that repair is no longer needed, as expressed by Senator McConnell. But it could also represent Brophy’s “compensation is not due” and a belief held, for example, by Steele and Sowell, that African Americans’ status in American society is a product of their own culture, not a result of the long-ago experiences of enslavement.

“Impossible to place monetary value” refers to the financial impact of slavery; again, it could mean different things to different people. It could mean simply that calculations of reparations would not be easy, and be an aspect of the difficulty of administration. But it is the top choice of African American respondents, so for them, at least, it may reflect the feeling that reparations would be insulting, which has been expressed by a number of the writers cited, such as Williams and Hughes, or as Brophy comments reflect that “recalling past tragedies are indeed, painful.” [Brophy, p. 1211]

The last of the choices, “treated equally” straightforwardly expresses the belief that African Americans are treated equally in today’s America, and thus there is no need for

reparations. One would not expect African Americans to be likely to select this choice, and they were not.

| Treated Equally | | 2021 | 2024 |
|---|---|---|---|
| | | | |
| Whites | | 19% | 21% |
| African American | | 11% | 8% |
| Latino | | 19% | 23% |
| Asian | | 0% | 6% |

The Pew Survey's only question that reflected a reason for the respondent's position was whether the "legacy of slavery affects Black people in the U.S." The answers were summarized as "not much/not at all" and "a great deal/a fair amount." Here the numbers for "not much/not at all" were 40% of all U.S adults: 48% of whites, 13% of African Americans, 33% of Hispanic Americans and 20% of Asian Americans. [Pew] This is a question of whether respondents thought there was a need for reparations; that 48% of white respondents thought there was no such need points again to the strength of popular opposition to reparations for the descendants of slaves.

The size of support and opposition to reparations is certainly the most important result of these and other polls. Popular opposition indicates the difficulty of passing legislation initiating reparations. Poll after poll shows that a clear majority of Americans is opposed to the federal government providing reparations to the descendants of slaves. In November 2022, the Pew Research Center published its findings from a 2021 survey. In the Pew poll, 80% of white Americans opposed the idea of compensating enslaved Africans' descendants, while only 17% of African Americans did. In addition, 65% of Asians and 58% of Hispanics were opposed. As a whole, 68% of all Americans opposed reparations. [Pew]

Slightly less opposition had been revealed in 2020 by The Washington Post and ABC News Poll: 63% of Americans opposed the government paying reparations to the descendants of slaves: three-quarters of whites, less than 20% of blacks, and 56% of Hispanics. [Post]

The University of Massachusetts Amherst has produced four polls since April 2021 which include varying numbers of questions about reparations, as was discussed above. Looking at attitudes to the government's provision of reparations to the descendants of enslaved Africans, in the Spring 2021 poll, 62% of the respondents were opposed "and nearly half (46%) say the federal government 'definitely should not' make cash payments to the descendants of slaves." [UMass1] By the fourth poll, in 2024, the

poll director commented “Support for a federal reparations program has declined by 4% among all Americans” and African Americans are one of the groups which “have exhibited steep declines in their support for the program since 2021.” [UMass2] White opposition held steady at 72% until 2024, when it increased to 74%. African American opposition steadily increased, from 14% to 16% to 26% to 32%. [UMass 2]

## Conclusion

The polls indicate that a majority of Americans continues to oppose reparations for the descendants of enslaved African Americans—certainly as provided by the federal government. Most of the opposition comes from white, Latino, and Asian American voters—but a substantial percentage of African Americans, somewhere between 20 and 30 percent, agree. Their voices have been represented in the arguments presented in this section: over one half of the authors cited are African Americans.

Readers should note that this opposition is aimed at reparations for the descendants of enslaved Africans. The African Americans cited recognize that the status of African Americans is not equal to that of other Americans: there is little support among them for the UMass Poll answer “Treated equally.” The white response here ranged from 19 to 23%; the African American response from 11% in 2021, to 14% in 2023, to 8% in 2024. Similarly, the Pew poll results to the question “the legacy of slavery affects Black people in American society today” show that only 13% of African Americans answered “not much or not at all” to that question, while 48% of white people answered “not much or not at all.”

The widespread lack of support for reparations for the descendants of enslaved Africans among the general public likely explains the Pew poll finding that 75% of those who favored reparations had little if any expectation that it would occur in their lifetimes. There was little difference between the responses of white Americans (80%) and African Americans (82%) to that question, though lower percentages of both Hispanics (58%) and Asian Americans (62%) held that view. However, there is support among many of these authors, African American as well as white, for other kinds of repairs for the harms African Americans continue to experience (e.g. in Brophy, Williams, McWhorter, Epstein, Eizenstat, Frum, Green, and Hughes). If there is to be repair for the harms African Americans experience in American society today, it is unlikely to be money for the descendants of enslaved Africans provided by the federal government, using American tax dollars.

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## Who Should Receive Reparations?

Chattel slavery is often cited as this nation's original sin, which is generally dated from the arrival in 1619 of the White Lion, an English ship carrying Black Africans who were traded in Virginia as commodities for supplies. "They are the first recorded Africans to arrive in England's mainland American colonies." [Virginia] Slavery took root and spread from there.

The harms of slavery were unspeakably severe, starting with forcible removal of people from their country, families, culture, and language. Once in this country, these people suffered even greater direct injuries through:

- Unpaid, forced labor on plantations
- Forced slave breeding, including by slave owners
- Extreme violence perpetrated against enslaved people, including murder
- Separation of families
- Theft of farming knowledge, particularly cultivating rice and cotton
- Emotional abuse
- Withholding of education, literacy

Many books, records, films, and other media document the Trans-Atlantic slave trade that forced migration of millions of people from Africa to the Americas, traversing the Atlantic (the "Middle Passage") in ships that were overcrowded, under-resourced, unsanitary, and often violent. This "trade" in people between the US and other nations was made illegal in the US in 1808 with the "Act Prohibiting the Importation of Slaves." [SlaveTrade] But it was not enforced, and slave trading within this country persisted. Fifty-two years later, in 1860, the last American slave ship, the Clotilda, arrived at the Mobile River in Alabama. [Clotilda]

The nation's original sin was compounded after the Civil War, when the nation failed to provide emancipated people with any means of supporting themselves, except for a few years during Reconstruction, from 1865-1877. The section in this report addressing *Why Are Reparations Needed?* documents some of the many areas where ongoing discrimination and segregation, in social attitudes, public policies, and legislation, have explicitly and implicitly harmed Black Americans from Emancipation up to today. One of the richest sources of documentation and artifacts of the Black experience in this country is the Smithsonian's National Museum of African American History & Culture, aka "the Blacksonian." "The NMAAHC is the world's largest museum dedicated to African-American history and culture. In 2022 it welcomed 1,092,552 visitors, and was second-most visited Smithsonian Museum, and eighth in the list of most-visited museums in the United States. The museum has more than 40,000 objects in its collection, although only about 3,500 items are on display. The 350,000-square-foot

(33,000 m2), 10 story building (five above and five below ground) and its exhibits have won critical praise." [SNMAAHC]

## How Should We Define *Who?*

This study first considers reparations for descendants of Black Africans enslaved in the United States from 1619 to the abolishment of slavery. In addition, the study looks at the broader *Comprehensive Reparations* which "focus on making reparations accessible, inclusive, and constructive" for all Black Americans. [NBCT]

### Why Descendants Only?

While most if not all Black, indigenous, and people of color (BIPOC) face legalized and nonlegalized systemic discrimination, there is a direct, traceable connection to enslavers and the wealth they extracted from the people they enslaved as well as the harm they caused to enslaved people -- by raping, lynching, beating, tearing families apart, and more. "[B]ehind all of that oppression was actually theft. In other words, this is not just mean. This is not just maltreatment. This is the theft of resources out of that community. That theft of resources continued well into the period of… the Fair Housing Act" of 1968. [Coates]

"Taking into account the absence of reparations for chattel slavery, and the presence of the accrued cost of its brutal, 400-year legacy, the descendants of chattel slavery in the U.S. have been made to inherit a singular disadvantage in national life." [ADOS1] But not every Black person in the US has inherited this singular disadvantage:

1. Not all African Americans are descended from enslaved people. Some are descendants of free Black people. Some immigrated to the US after the end of slavery.
2. Not all African Americans are Black.
3. People of color have emigrated to the US throughout history.
4. Black Americans are a broad and diverse group. The US census definition of Black or African American is "A person having origins in any of the Black racial groups of Africa." [Census]

It's also the case that not all descendants of slaves need—or desire—reparations; in November 2022, the Pew Research Center published its findings from a 2021 survey. [Pew] In this poll, 17% of African Americans opposed the idea of compensating enslave Africans' descendants. In four other polls taken by the University of Massachusetts, Amherst from 2021 to 2023, opposition to the federal government providing reparations to the descendants of slaves increased among African Americans from 14 to 26%. [UMass, p 2]

Coleman Hughes indicated his opposition to the grant of reparations in his "Opening Statement on Slavery Reparations to the U.S. House Committee on the Judiciary" delivered in Washington, D.C, June 19, 2019:

"What we should do is pay reparations to black Americans who actually grew up under Jim Crow and were directly harmed by second-class citizenship, people like my grandparents.

"But paying reparations to all descendants of slaves is a mistake. Take me, for example. I was born three decades after the end of Jim Crow into a privileged household in the suburbs. I attend an Ivy League school. Yet I'm also descended from slaves who worked on Thomas Jefferson's Monticello plantation. [Hughes]

### Why Limit to Descendants Only?

- We have to start somewhere, and there is no statute of limitations on repairing harm.
- The national original sins of first, allowing slavery, and second, not supporting emancipated people in the years after they were freed meant that enslaved people and their descendants suffered the most and are most deserving.
- It sends a signal that racism is not acceptable.
- All of us will benefit: "The antiquated belief that some groups are better than others distorts our politics, drains our economy, and erodes everything Americans have in common from our schools to our air to our infrastructure." [McGhee, p xxiii]

In trying to define *who* should receive reparations, related questions arise:

- When exactly did slavery end?
- How can people who qualify for reparations be identified?
- Should we **not** limit the definition?

The following sections address these questions.

## When Did Slavery End?

Pinpointing the exact end of slavery is difficult, and arguably we have not yet succeeded. Some milestones are:

- **January 1863**, the Emancipation Proclamation was issued, freeing all people enslaved in "rebellious" states, which means this proclamation did **not** free all enslaved people in the US. [Emancipation]
- **June 19, 1865** when 2,000 Union troops arrived in Galveston, TX, to notify the nearly 250,000 enslaved Texans that they were free. After the Emancipation Proclamation was issued, not all enslaved people in the Confederate states had access to this information and/or were not able to realize its promise. Many

slaveholders moved slaves from Union-occupied states to Texas during the Civil War specifically to avoid freeing their enslaved people. [Texas]

- **Dec 6, 1865** when the 13th Amendment was ratified with two sections [13th]:
    1. "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."
    2. "Congress shall have power to enforce this article by appropriate legislation."
- **1868:** The 14th Amendment ensured that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." [14th]
- **1870:** The 15th amendment ensured that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." [15th]
- **Summer 1866** saw the ratification of treaties between the US and five native tribes, which held over 10,000 enslaved Black people, that "abolished slavery among the tribes and outlined citizenship rights available to the Freedmen and their descendants." [Tribes]
- **1964:** Civil Rights Act "The Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex or national origin. Provisions of this civil rights act forbade discrimination on the basis of sex, as well as in hiring, promoting, and firing. The Act prohibited discrimination in public accommodations and federally funded programs. It also strengthened the enforcement of voting rights and the desegregation of schools." [DOL]

## Has Slavery Actually Ended? The Slavery Loophole

Yet, despite proclamations, constitutional amendments, and important legislation, discrimination remains entrenched. Further, the 13th Amendment created a "loophole that slavery would remain legal as a punishment 'within the United States, or any place subject to their jurisdiction.' ...In the aftermath of the Civil War, the former Confederate states used the pretext of minor crimes, like loitering or vagrancy, codified in law as the 'Black Codes' to imprison thousands of Black residents who were in turn leased out to plantations. The use of the 13th Amendment loophole became so common that by 1898, close to three-quarters of Alabama's state revenue was generated by renting out Black Americans." [Loophole]

The Black Codes were "...restrictive laws designed to limit the freedom of African American and ensure their availability as a cheap labor force after slavery was

abolished...” These codes also limited occupations of formerly enslaved people, limited the property they could own, and heavily controlled their movement through vagrancy laws. [BlackCodes]

One outcome of the Black Codes was convict leasing, which was essentially slavery in a different form. People convicted of violating the Black Codes were imprisoned by states and then were leased out as labor. The prisoners were not paid and the states profited. Forced labor of prisoners persists: “As recently as 2010, a federal court held that ‘prisoners have no enforceable right to be paid for their work under the Constitution’.” [EJI]

Today, there are similarities between convict leasing and prison labor: “… prisons appear to be paying incarcerated people *less* today than they were in 2001. The average of the minimum daily wages paid to incarcerated workers for non-industry prison jobs is now 86 cents, down from 93 cents reported in 2001. The average maximum daily wage for the same prison jobs has declined more significantly, from $4.73 in 2001 to $3.45 today. What changed? At least seven states appear to have lowered their maximum wages, and South Carolina no longer pays wages for most regular prison jobs – assignments that paid up to $4.80 per day in 2001. With a few rare exceptions, regular prison jobs are still unpaid in Alabama, Arkansas, Florida, Georgia, and Texas.” [PrisonLabor]

Furthermore, “[m]ost prison jobs teach incarcerated people very few skills relevant to the labor market they will rejoin upon release, so the wages they earn may be the only payoff they see.” [PrisonLabor] This makes it almost certain they will be reincarcerated, which along with the schools-to-prison pipeline 4, puts a large percentage of Black people in the prison system. See also the section in this report on *Why Are Reparations Needed: The Criminal Legal System.*

Clearly, harms to Black Americans persist today, directly and indirectly caused by slavery.

## How Can People Who Qualify for Reparations Be Identified?

As noted, the US census definition of Black or African American is broad: “A person having origins in any of the Black racial groups of Africa.” [Census] This includes people who indicate their race as "Black or African American" or report responses such as African American, Jamaican, Haitian, Nigerian, Ethiopian, or Somali. It also includes groups such as Ghanaian, South African, Barbadian, Kenyan, Liberian, Bahamian, etc.

Different organizations offer different definitions for who qualifies for reparations. The American Defendants of Slavery (ADOS) states: “A person must 1.) Be a citizen of the

United States of America and have identified as Negro, Colored, Black, or African American throughout their life on government documentation; 2.) Present a government-issued ID, birth certificate, or census record identifying a *direct ancestor* as Negro, Colored, Black, or African American before 1965; and 3.) Trace their ancestry to at least one person that identified as Negro, Colored, Black, or who was an enslaved person in the United States between 1776 – 1865." [ADOS2]

NAACP in its 2019 Reparations Resolution provided the following requirements for eligibility: "United States or naturalized citizens that have noted their Black heritage on the census, identify as Black on their birth certificate and/or have documentation of enslaved parentage in the United States, documentation of parentage residing in the United States prior to and during the Jim Crow era, and currently identify as Black American or African American." [NAACP1]

NAACP's 2024 Policy Positions suggest a broadening beyond the descendants of the enslaved. The position calls for study commissions "to study and develop proposals for potential reparations to descendants of enslaved people and those impacted by slavery…determining who should be eligible to receive compensation." A "thorough review should not only be a look at the institution of slavery, but also at the resulting racial and economic discriminations against African Americans, and the impact of those forces on African Americans who are living today." [NAACP2]

In addition, ancestry for Black Americans can take several forms:

- African Americans descended from slaves
- African Americans descended from free Black people
- Black African Americans who emigrated to the US after the end of slavery and became naturalized citizens
- Other people of color who have emigrated to the US throughout history and identify as Black

While all of these groups have stronger or weaker ties to slavery in the US, they are all impacted by the post-Civil War state, federal, and local laws; and biases that have kept Black people from the same opportunities that white people enjoy.

For descendants of enslaved people, a number comprehensive sources of historic records of enslaved people are dedicated to helping them identify their ancestry including:

- American Ancestors/New England Historic Genealogical Society
- Ancestry.com
- National Museum of African American History
- US Census data on ancestry
- DNA samples

- Ten Million Names
- Proof held by descendants (family bibles, documents, letters, etc.)

Nevertheless, in many cases it will be very difficult for at least some, perhaps many, descendants of enslaved Black Africans to find sufficient proof of ancestry. Records of the times were hand written and varied in quality; public records may not have been kept; or may have been lost or destroyed purposely or accidentally. Tracing ancestry could be expensive, requiring the services of a professional genealogist. If the proof would be a certain measure of DNA (as in the case of Native American tribes), claimants/inquirers might have so much racially mixed DNA that they might not qualify, even if they were in fact descended from an enslaved ancestor. A lineage requirement would inevitably rule out some, so would not be fair in every case. “Lineage-based reparations are under-inclusive, create costly barriers, and are too restrictive for largescale local governments, state and national reparative justice initiatives.” [NBCT, p 3]

NAARC asks: “how much genetic material must be identified in one’s blood from the enslavement era in order to be eligible for reparations? Factually, the genetics of people of African descent/Black people in the United States are the result of the amalgamation” including forced slave breeding, intermingling with native people, migrations from Caribbean and Central and South American areas, and recent migrations from Africa. [NAARC]

## Why Should We ***Not*** Limit Who Receives Reparations?

The difficulty of identifying who descendants of enslaved Africans leads to questioning limits on who among Black Americans should receive reparations.

Different definitions are offered for who qualifies for reparations. As noted above, ADOS calls for reparations to descendants of enslaved Africans but also includes citizens who identify as Black and citizens who can identify a Black ancestor before 1965. [ADOS2]

A number of Black organizations assert that reparations should not be limited to descendants of enslaved Black Americans. For example, “NAARC strongly affirms the right of all people of African descent in the U.S. to receive reparations, irrespective of when they arrived here or their country of origin. The historical fact is that centuries of enslavement, post-Emancipation racially exclusionary policies and practices, psychological trauma, racial oppression, violence and mass incarceration have severely underdeveloped and, in some instances, outright destroyed families and communities in Black America. As a result, both community and direct benefits, in whatever form or forms that are agreed upon, are necessary components of a reparatory justice settlement.” [NAARC]

N'COBRA asserts that "within the broadest definition, all Black people of African descent in the United States should receive reparations in the form of changes in or elimination of laws and practices that allow them to be treated differently and less well than White people. For example, ending racial profiling and discrimination in the provision of health care, providing scholarship and community development funds for Black people of African descent, and supporting processes of self determination will not only benefit descendants of enslaved Africans, but all African descendant peoples in the United States who because of their color are victims of the vestiges of slavery." [NCOBRA]

The NAACP, in its Reparations Resolution, states "Reparations would involve a national apology, rights to the cannabis industry, financial payment, social service benefits, and land grants to every descendant of an enslaved African American and Black person a descendant of those living in the United States including during American slavery until the Jim Crow era….Because slavery involved kidnapping, barbarism, and the stripping of language, culture and heritage, many Black people are unaware of their specific African heritage and which country in fact their ancestors were stolen from. The forged documentation, lack of documentation or non-existent documentation, from birth certificates to slave manifest, be it resolved that eligibility for these reparations requires the following: people that were born in the United States or naturalized citizens that have noted their Black heritage on the census, identify as Black…" [NAACP1]

Many of these organizations focus on *Comprehensive Reparations,* defined by The National Black Cultural Trust as "about human rights and the right to self-determination, not just owed debt. Comprehensive reparations address the economic toll caused by years of forced labor while recentering anti-Black dehumanization, genocide, white supremacist terrorism, and racism as the primary focus for change and remedies. This includes financial compensation but also significantly uplifts structural changes that benefit Black communities and remedy the overall dehumanization and criminalization of people of African descent." [NBCT]

Finally, NAARC advances the following: "The eligibility criteria for Comprehensive Reparations should be determined by the remedy. Thus, different remedies will include various eligible parties. For example, remedies for slavery, Jim Crow, and systemic racism address various harms and affected parties. *."* [NAARC]

## Conclusion

Who should receive reparations? This is not an easy question. Advocates of reparations vary widely in their positions on whether descendants of enslaved Africans or all Black/African Americans in the US should be provided with reparations, for example:

- **In favor of descendants only**: "Taking into account the absence of reparations for chattel slavery, and the presence of the accrued cost of its brutal, 400-year

legacy, the descendants of chattel slavery in the U.S. have been made to inherit a singular disadvantage in national life." [ADOS1]

- **In favor of in favor of all African Americans**: "NAARC strongly affirms the right of all people of African descent in the U.S. to receive reparations, irrespective of when they arrived here or their country of origin. The historical fact is that centuries of enslavement, post-Emancipation racially exclusionary policies and practices, psychological trauma, racial oppression, violence and mass incarceration have severely underdeveloped and, in some instances, outright destroyed families and communities in Black America." [NAARC]

- **Merging the two approaches** by giving priority to descendants of enslaved Africans, as in Evanston, IL, where descendants of enslaved Africans were prioritized for the first round of reparations for housing. [Evanston] Ultimately all Black residents will be able to apply for reparations.

And as noted, the broader concept of Comprehensive Reparations has gained traction and focuses "on making reparations accessible, inclusive, and constructive" for all Black Americans. [NBCT]

A two-pronged approach prioritizing descendants but also recognizing that harms to all Black Americans must be repaired may be the most balanced and just. "*All Black people who were harmed by America in America, should be repaired by America in America!*" [NAARC]

It's likely that government entities at any level, institutions, organizations, communities, businesses, grassroot activists will have varying takes on who should receive what reparations, depending on their specific contexts for considering how harms should be repaired.

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## What Reparations Could Be Provided?

This section of the study report shares some of the most current thinking about what reparations could be provided in order to work towards repair of the vast inequities and injustices that have engulfed the lives of Black Americans, from the 246 years of enslavement until the present day. It is not an exhaustive list of the possible remedies necessary to correct centuries of racist policies that have led to the racial injustices we still see today. We encourage members to continue researching themselves. Many organizations, both local and national, have been and are advocating for reparations for Black Americans. Given that the report addresses the League of Women Voters of Massachusetts, the emphasis is on remedies recommended in Massachusetts.

However, reparations for populations which have been harmed are not a distinctly American need; it is useful to provide an international context. The United Nations Office of the High Commissioner for Human Rights states that: “Victims have a right to reparation. This refers to measures to redress violations of human rights by providing a range of material and symbolic benefits to victims or their families as well as affected communities. Reparation must be adequate, effective, prompt, and should be proportional to the gravity of the violations and the harm suffered.” The United Nations statement continues by defining four reparation measures: restitution, compensation, rehabilitation and satisfaction. [OHCHR]

Perhaps most visible in the reparations to be discussed in this report are “Compensation, which should be provided for any economically assessable damage, loss of earnings, loss of property, loss of economic opportunities, moral damages” and satisfaction, which the United Nations defines as, “the cessation of continuing violations, truth-seeking, search for the disappeared person or their remains, recovery, reburial of remains, public apologies, judicial and administrative sanctions, memorials, and commemorations.” [OHCHR]

For over 35 years, there has been a bill sponsored in the United States House of Representatives to create a federal commission to study reparations for the descendants of slavery, and it has never been brought to the floor for a vote, despite being submitted every year, since 1989.

### The Harm Areas

#### Culture & Symbols

Embrace Boston’s Harm Report of 2024 acknowledged first the importance of reparations for loss of culture; redress is important because “the repression of African people’s culture upon forced arrival in this land has caused irreparable harms that still affect Black people today.” [HarmReport, p 24] In the injury list of the National Coalition of Blacks for Reparations in America [NCOBRA], this loss of culture is described as “Peoplehood/Nationhood - The destruction of their culture, and the infringement of the larger culture upon their people. Jim Crow and ongoing discrimination have resulted in

a denial of our right to openly express our culture, appropriation of our culture, and denial of the right and resources necessary to be a self-determining people.

“Throughout this country’s history, their efforts to be self-determining have been met with violence and destruction as evidenced by the untold numbers of townships, such as Greenwood, Oklahoma; Rosewood, Florida; and Wilmington, North Carolina – townships ultimately destroyed because of the surrounding white community’s jealousy and need to suppress models that refuted their claims of white superiority.” [NCOBRA1]

The dehumanization of a people usually begins with the forced restriction of their language, culture and identity, and for the descendants of enslaved Africans this loss cannot be understated. Reparations for Culture and Symbols can represent a breadth of opportunity, from ensuring arts in education for children and representation in the arts by local Black artists, to restoring the historic sites - important to all of our history - that have long been erased and forgotten. Embrace Boston advocates for increased funding for arts and culture organizations focused on racial and ethnic minorities. The Massachusetts-based organization also emphasizes the importance of accurately representing Black artists in public spaces such as parks, museum galleries, and stages. [HarmReport, p 26] Such programs are crucial for addressing the long-term effects of cultural repression and systemic injustices.

“The historical and contemporary occlusion of the Black presence in Boston has been a requisite of perpetuating the myth of Boston as a white city. It is important that our collective third spaces tell an accurate cultural story of the city; from parks to museum galleries to center stage, fully representing Black Bostonians is not a matter of optics, it is about mitigating the harms that have accumulated over centuries of erasure.” [HarmReport, p 33]

The National African American Reparations Commission [NAARC] urges reparations to include the restoration of forgotten or ignored historic sites: providing signs at sites of historical significance to the Black community, including locations of lynchings, massacres, and destroyed Black towns or neighborhoods; funding both “to discover lost or forgotten Black sacred sites and monuments’” and to preserve known “Black burial grounds and other significant cultural and historical sites.” [NAARC] Remembering past history is a theme that also runs through N'COBRA’s emphasis that “reparations for Black people of African descent to include funds for scholarships and community development; creation of multi-media depictions of the history of Black people of African descent and textbooks for educational institutions that tell the story from the African descendants' perspective; development of historical monuments and museums; the return of artifacts and art to appropriate people or institutions.” [NCOBRA1]

In the Massachusetts town of Amherst, the Reparations Report created by the African Heritage Reparations Assembly also emphasizes history and culture. The report urges the town to support the work of the Ancestral Bridges Foundation, “whose mission is to

celebrate BIPOC arts, history and culture in Western Massachusetts." It also recommends the foundation of "a museum to showcase the history and culture of the African heritage people of Amherst" which should include "a genealogical research center." [AHRA, pp 28-29] Amherst's Report also urges the Town to support the Civil War Tablets Exhibition, five tablets inscribed with the names of over 300 Black soldiers from Amherst and the surrounding area who served in the Civil War. [AHRA, 28-29]

The harm of cultural and symbolic exclusion, as seen in the Culture & Symbols injury area, can be addressed in a number of ways.

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## Housing

The reparation plans for housing focus mainly on addressing the historic as well as current racist housing policies and discrimination that have played an important role in creating the enormous wealth gap between Black and white Americans. As Embrace Boston notes: "homeownership has been directly linked to securing wealth that can be passed down to future generations." [HarmReport, 36] Redlining, in particular, has greatly impacted the ability for Black Americans in Boston as elsewhere across the USA to build generational wealth as equally and equitably as their white counterparts.

"Redress can come in the form of expanding access to affordable housing, protecting renters' rights, and addressing discriminatory lending practices that have historically made it difficult for Black people to become homeowners." [Harm Report, p 126] For additional measures, Embrace Boston's Harm Report highlights the Boston Area Research Initiative, whose goal "is to answer the question 'How can Boston's next Mayor improve affordability, stability and equity in the city's housing market?'" [BARI1]

A recent case study of rent profiteering and gentrification in Oakland California shows that poor Black neighborhoods like West Oakland are some of the most lucrative spaces in the country for both landlords who rent profiteer through poorly maintained properties, and real estate speculators who hold homes vacant, then flip and sell to wealthy white newcomers. White private real estate speculators have acquired properties in the neighborhood at a shocking speed over the past two decades. Their practices lead to rapidly increased displacement and disruption of the Black community." [M4H, p 55]

Gentrification has been a problem for Boston, "which ranked third for gentrification in the nation between 2013 and 2017." [HarmReport, p 44] In Boston, "Previous efforts to revitalize neighborhoods have resulted in gentrification, whereas new construction needs to focus on maintaining a diverse population …placing affordable housing in predominantly white areas is important, as is revitalizing Black communities to attract a diverse population of residents." [HarmReport, p 46]

The reparation ideas of NAARC for housing dig deeper into the systemic changes that may be necessary, calling for the establishment of "an African American Housing and Finance Authority to finance the planning and construction of holistic, sustainable 'villages' with affordable housing and comprehensive services." This authority is also intended to provide grants and loans to individuals seeking housing. [NAARC]

Financial assistance with housing is the initial reparation planned in Evanston, Illinois, the first U.S. city to establish a reparative program. "Each qualifying household received $25,000 for home repairs or down payments on property… Alderman Rue Simmons, who proposed the program that was adopted in 2019, said pro-reparations groups have offered pro-bono legal assistance if the program is challenged in court." [NBC] The program is indeed now being challenged in the courts as discriminatory to white people. [CNN]

## Transportation

"Our decisions about transportation determine much more than where roads or bridges or tunnels or rail lines will be built. They determine the connections and barriers that people will encounter in their daily lives - and thus how hard or easy it will be for people to get where they need and want to go." This quote by the late Elijah Cummings, U.S. Congress, frames the study report in researching possible reparations for transportation. [Heavy]

It is interesting that Embrace Boston's Harm Report is alone in pointing to the role of transportation among the discussions of reparations studied. Yet from the destruction of Black communities by the building of urban freeways to the lack of fresh food because of absence of neighborhood grocery stores, transportation - or the lack of it - has affected lives in Black communities all over the country. "Transportation is essential to accessing healthcare, education, and employment, directly lending to a person's ability

to grow their wealth." (HarmReport, p 59) The Harm Report turns again to the Boston Area Research Initiative (BARI) for ideas about improving transportation. Encouraging the use of public transportation, as is the intention of the current plan for increased free public transportation, is a key component in BARI's suggestions. [BARI2]

"Investing in infrastructure is equally important, as residents will not need to travel as far for resources if they are available in commercial hubs located within neighborhoods." [HarmReport, 59] Supporting equitable policies and actions that will increase access to transportation and infrastructure will aid not only Black people but everyone who currently lives in neighborhoods that lack access to grocery stores, clean water, clean air and health care.

## Education

According to Dr. Bettina Love, "To actually repair public education, with the aim of doing less harm and creating opportunities for all children to learn, I believe there must be reparations. Reparations serve two purposes: They acknowledge the scope and depth of the harm that has been done and they create the conditions for the current ongoing harm to cease and for making whole again those who have been harmed." [Love] "Post emancipation the vast majority of Black young people have been confined to separate and severely under-resourced schools during legal and de facto segregation. These conditions prevail today in what is legal and de facto segregation. These conditions prevail today in what is sometimes called 'poor performing schools.'" [NAARC]

Nearly all of the leading organizations fighting for reparations emphasize addressing educational opportunities. NAARC's preliminary report reflects NAARC's interest in emphasizing the Africanness of Black Americans. NAARC includes 'the allocation of funds for the expansion and consolidation of a National Board of Education of African Ancestry as the body to devise standards and accredit African-Centered educational programming for predominantly Black public schools throughout the country." For predominantly white schools, the Federal government should provide incentives "to school districts which adopt and implement a "Curriculum of Inclusion" of the history and culture of people of African descent in the U.S." The Historically Black Colleges and Universities, "the indispensable backbone of the higher educational infrastructure in Black America," should also receive funds. Students "who are committed to providing service to Black communities" should be able to attend HCBUs charge-free. [NAARC]

N'COBRA also emphasizes scholarships, but focuses on curriculum, particularly providing African American history from the Black perspective. [NCOBRA1] Similarly, in a letter to the superintendent of the local school system, the Amherst Report recommends using available resources to "reexamine and update its history curricula with the goal of engaging in deeper truth telling regarding the realities of slavery as well as the historic and ongoing struggle for civil rights." [AHRA, 33]

In July, 2019, Evanston's Equity and Empowerment Commission heard from the public what might improve education, one of the main concerns of the Evanston Black community. Having African American teachers teach African American history again is emphasized. Initiatives proposed included investing in early childhood education, tracking progress through middle and high school, offering free transportation to school, ending forced busing, and providing tuition-free attendance at Northwestern University. [Evanston1]

Embrace Boston's Harm Report emphasizes the importance of addressing and "ending the racially biased public policies that maintain dual education systems," in Black and white communities. [HarmReport, p 16] "Investments can be made in early childhood education, expanding access to quality K-12 education and providing financial assistance for college and vocational training." [HarmReport, p 126] The Harm Report's extensive review of the history of education in Boston is a foundation to understanding the reparations suggested. [HarmReport, pp 60-81] The remedies for redress for education in Boston are divided into six groups, including "increased and equitable funding for schools;" expansion of "wraparound educational and social services for underserved students and their families;" "collaborative decision-making opportunities…for families of color;" and the elimination of both punitive disciplinary measures as well as standardized testing barriers. [HarmReport, pp 80-81]

Extensive reparations for education are critical. "Over the last few decades, a series of court decisions and misguided government policies have led to increased resegregation of Boston's students of color into high-poverty, low-performing schools. As recently as 2019, 77 percent of Black students and two thirds of all students of color attended "intensely segregated," high-poverty schools in Boston. These same schools received $1,000 less funding per student when compared to schools with low concentrations of students of color. Our poor track record around the education of our Black children is deeply disturbing. There is more research than ever documenting both the negative impacts of segregated school settings and the positive impacts of integrated learning environments on Black children's educational opportunities, achievement levels, postsecondary success, and life outcomes." "*The Boston City Council's Committee on Civil Rights heard testimony on Tuesday, October 26, regarding reparations for slavery in the City of Boston. The above was taken from Tammy Tai's testimony to the committee."* [Jeffries]

## Criminal Legal System

The legal system in America has disproportionately affected Black Americans more than any other racial group in the country. "The 13th Amendment may have outlawed the enslavement of Black people, but the United States continues to devise new ways to uphold the racist hierarchies that slavery was founded on and to restrict the freedom of the descendants of enslaved people." [Vera] In *The New Jim Crow*, Michelle Alexander demonstrates that through the criminal justice system, "an extraordinary percentage of

black men in the United States are legally barred from voting today just as they have been throughout most of America history. They are also subject to legalized discrimination in employment, housing, education, public benefits, and jury service, just as their parents, grandparents and great-grandparents one were." [Alexander, 1-2]

N'COBRA defines criminal punishment as one of the five main injury areas of slavery. [NCOBRA2] For NAARC, "The 'criminal injustice system' has been a persistent source of resentment, resistance and rebellion by Black people. Apologies from elected officials, leaders and institutions responsible for fostering and benefiting politically from this unjust system are not sufficient. The damages to Black families and communities must be repaired." In NAARC's 10 point plan, repair of the damages of the "Criminal Injustice System" would include various measures to help the formerly incarcerated adjust to their new life: creating "a Black controlled Agency for Returning Citizens" to provide "culturally appropriate counseling, career development services and job/employment training for formerly incarcerated persons," available in local centers, financial support for "business opportunities in communities damaged by mass incarceration," and restoration of voting rights. Moreover, the thirteenth Amendment, which formally abolished slavery: EXCEPT "as a punishment for crime whereof the party shall have been duly convicted" should be amended to remove that exception, "which implies that Black people convicted of crimes can be legally held in bondage." [NAARC]

Embrace Boston's Harm Report outlines a history in Boston of a racist police force. That history, and increasing police violence against Black and brown communities, has created a lack of trust and effectiveness of law enforcement in Boston. "As addressed in this report, the criminal justice system of Boston has set the stage for discriminatory policies and practices that have been carried out against its Black residents for decades…The solutions for the decades of harm that Black communities have faced are complex, but there are numerous recommendations that should be considered." [HarmReport, p. 94] The report goes on to refer to the recommendations of another Boston Area Research Initiative [BARI] study, "Advancing Public Safety in Boston: An Agenda for the Next Mayor." The study's recommendations for redress include internal changes in the Boston Police Department, such as improved handing of complaints of misconduct of officers and increased diversity of personnel, and "partnership recommendations," such as community policing and working with local academic institutions to research "just how the policing practices affect its communities." [HarmReport, pp. 94-95; BARI3] BARI also refers to three recommendations made by the Massachusetts Coalition for Juvenile Justice Reform in 2020: "Transparency in all juvenile justice decisions by both race and ethnicity; Calling an end to the automatic prosecution of minors as adults; Expand the expungement requirements which were updated in the 2018 CORI reform to better include those who were overpoliced and criminalized." [Youth Justice]

The problems, both in Boston and across the nation, are old and deeply entrenched.

Moreover, they are interwoven with other harms such as the wealth gap, as the Harm Report points out: “The fight to obtain wealth, however, stems from more than just a generational struggle—it stems from the day-to-day battles with financial instability that have been fostered by the criminal justice system…This dynamic is a never-ending cycle; those with criminal records struggle to obtain jobs and are therefore faced with poverty, and those who are impoverished are faced with prison.” [HarmReport, p.93]

## Health

N’COBRA considers health—both physical and mental-- the fifth injury area of slavery. The history of the use of Africans as subjects for medical experimentation, like the Tuskegee syphilis study, is well-known. N’COBRA includes in the health injury area “the continuing discrimination in the provision of health care, including the disproportionately higher rate of closures of hospitals serving Black communities; lack of access to health insurance to provide affordable access to health care; the failure to validate health care protocols for Black people of African descent; and the failure to provide the appropriate medical treatment for critical health care symptoms which have resulted in higher rates of death for Black people of African descent compared to Caucasians exhibiting these symptoms. [NCOBRA2]

NAARC and N’COBRA describe several of the same harms. NAARC, too. emphasized the closure “of many public hospitals and medical facilities that traditionally served Black communities,” while those that survive often “are ill-equipped to offer a full range of services for lack of adequate funding.” NAARC consequently recommends adequate funding for existing hospitals serving the Black communities, the revival of those which have been closed, and the establishment “of a regional system of Black controlled Health and Wellness Centers, fully equipped with highly qualified personnel and the best 21st century facilities to offer culturally appropriate, holistic preventive, mental health and curative treatment services.” NAARC also emphasizes funding for scholarships for medical schools. [NAARC]

Both N’COBRA and NAARC point to post-slavery stress syndrome. N’COBRA concludes its list of harms with “an examination of post-slavery stress syndrome, a developing area of investigation by Black mental health professionals of African descent.” [NCOBRA2] NAARC expands on “the intergenerational psychocultural, mental, spiritual and physical damages of Post Traumatic Slavery Syndrome, the daily toll of racism on individuals, families and communities and the debilitating effects of chronic health disparities resulting from structural/institutional racism are well documented by leading Black psychiatrists, psychologists and physicians.” NAARC calls for funding for “use of Emancipation Healing Circles as a methodology to address and overcome the damages of Post Traumatic Slavery Syndrome.” [NAARC]

N’COBRA’s 2021 report titled, “The Harm is to Our Genes” develops the theory that “that historical trauma negatively manipulates gene structures, that those manipulations

create a high probability for illness, that the changes and propensity for illness can, and often are, passed down multiple generations, and finally that the historical trauma never really ended" for the descendants of enslaved Americans. To ensure that this theory affects contemporary medical practice, N'COBRA seeks five outcomes: **Inclusion** to ensure that health disparities experienced by black communities are understood as the consequence of 400 years of trauma--trauma which has affected and may well in the future affect the health of black individuals. **Resources** should be directed to black communities "to mitigate the effect of the historical trauma." **Research** must be done in black communities for better understand and so enable transgenerational healing", Awareness should be communicated by all levels of government, showing ways that black communities can individually address this reality. Finally, there must be a **Decolonization of Health** that facilitates "alternative healing modalities, especially, African, and African-centered healing modalities…" in the effort to heal [Black] communities from the centuries of terror, trauma, and abuse." [NCOBRA3, p. 3]

As Embrace Boston commented in its Harm Report: "Through reparations, it is clear that steps can be taken within communities to remedy the past and create pathways for sustainable futures. The call for reparations and actions to materialize it is necessary to address the compounding intergenerational impact of racism on the health and wellbeing of Black people in Boston." [HarmReport, 100]

## Income and Wealth

Reparations in the form of cash payments is considered to be necessary for the losses and suffering of slavery by some organizations and authors. Organizations that call for cash reparations as a repair for enslavement include the American Descendants of Slavery [ADOS1]. ADOS has called for "cash payments totaling $20 trillion, [calculated in 2022] to American Descendants of Slavery." [ADOS2]

A Boston group, The Boston Peoples Reparations Commission, a local grassroots organization, recently called on the city of Boston to pay $15 billion for the reparations of slavery. "'The wealth of this city was built on slavery. And the city is responsible to pay back the wealth they extracted free of charge from other human beings who died at some point in the labor for this city,' said Rev. Kevin Peterson, who founded and runs the New Democracy Coalition. The $15 billion would be split three ways, according to the commission's proposal: $5 billion in direct cash payments to Black Boston residents, a $5 billion investment in new financial institutions and $5 billion to address the racial education gap and for anti-crime measures." [NBCBoston]

There have been several different calculations of monetary reparations for the lost wages, harms to family structure and mental and physical sufferings of enslavement. Totals arrived at include: "estimates of $19.1 trillion to $6.6 quadrillion in 2019 dollars for expropriated labor due to slavery and $35 trillion to $17.4 quadrillion dollars for lost freedom," saying nothing of other losses. [Craemer, p 58]

Money can also be seen as necessary compensation for “the cumulative economic effects of white supremacy in the United States” for which, according to Darity, “the racial wealth gap is the most robust indicator.” Darity1, p. 263] The wealth gap is widely considered to be perhaps the greatest challenge to reducing inequities between whites and blacks. In a 2020 calculation, “the average net worth figure for white households in 2019 was US$983,400 and for black households was US$142,500. The average racial wealth gap was US$840,900 per household.” [Craemer, p 24] How much would it cost to eliminate the wealth gap between whites and Blacks, by giving every descendant of enslaved persons enough to bring them level with the average white person? The estimate: $14.7 trillion. [Craemer, p 58]

Not all responses to the wealth gap need involve direct cash payments.

Embrace Boston notes that the wealth gap “developed over decades from discriminatory laws and policies that have prevented Black families from building intergenerational wealth.” Programs like CORI checks have long prevented black Americans from good-paying jobs, just as redlining has limited access to housing that could build wealth. [HarmReport, p 93].

For N’COBRA, “material forms of reparations include cash payments, land, economic development, and repatriation resources, particularly for descendants of enslaved Africans.” [NCOBRA2] NAARC proposes creating a “National Reparations Trust Authority” and transferring to it government/public land to be used for “educational, commercial, industrial, and health/wellness institutions to benefit people of African descent.” Funds are to be used for grants to farmers, to support “cooperative enterprises and socially responsible entrepreneurial development.” [NAARC]

FirstRepair of Evanston focuses, as we have seen, on home ownership and increasing the value of homes through repairs, but economic development, empowering Blackowned businesses, is seen as second in importance in closing the racial wealth gap. The recommendations to City Council in 2019 included providing “co-working or work cooperative space” and “low interest loans for African-American entrepreneurs” as well as workforce training for African-American Evanston residents. [Evanston2]

Reparations for income and wealth can involve simply cash payments. Indeed, for some, like ADOS, the only real meaning of reparations is cash or land. But other organizations prefer a broader range of reparations to redress/repair the economic disparities and promote sustainable, inclusive growth within Black communities. So, too, for Embrace Boston and the other organizations whose reparations plans and suggestions have been shown, the tremendous harms of slavery and of continuing discrimination have been many, and the reparations should also be many.

## Conclusion

All of these areas of injury are connected and intertwined, and so too, the measures of redress. The reparations suggested can dismantle the embedded systemic injustices that have created the racial wealth gap and threaten our democracy and way of life.

To end with Embrace Boston's Harm Report: "Ultimately, the call for reparations is about more than financial compensation. It is about acknowledging the ongoing harms of systemic racism, addressing the root causes of these injustices, and promoting healing and restoration for individuals and communities who have suffered for far too long." communities in Boston and Massachusetts and develop targeted solutions that can address these issues." [HarmReport, p. 124]

"Reparationists are the abolitionists of our time." –Woullard Lett, Grassroots Reparations Campaign Partner and Male Co-Chair of the National Coalition of Blacks for Reparations in America [TruthTelling]

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## How Could Reparations Be Provided?

The 2021 survey of American attitudes toward reparations by the Pew Research Center asked this question of respondents who supported reparations (30% of the total), providing four options: 75 percent of the supporters saw the federal government as having "all or most of the responsibility to repay descendants of enslaved people;" 65% said "businesses and banks that profited from slavery have all or most of the responsibility;" 53% said the same of "colleges and universities that benefited from slavery;" and 44% assigned all or most of the responsibility to "descendants of families who engaged in the slave trade." [Pew]

This section surveys ideas frequently expressed, primarily in the African American community, about which individuals, agencies, or organizations should provide reparations. Although reparations have been proposed and discussed since Emancipation, this section deals only with developments of the last few decades, looking briefly at what has recently been tried or accomplished. The reparations movement is definitely a continuing, and very uneven, process.

### The Federal Government

William Darity Jr. and Kirsten Mullen, authors of perhaps the most comprehensive work to date on reparations, argue that only the federal government can comprehensively address the economic impacts of the institution of slavery and its aftermaths, which include legalized segregation; terroristic lynching; convict codes; housing discrimination (e.g., redlining, housing contracts, etc.); educational and employment discrimination; discriminatory incarceration; and federal policies that supported racism in administration if not original intention. [Darity] See also the sections in this report beginning *Why Are Reparations Needed* for more details on these impacts.

Darity and Mullen identify the racial wealth gap as the most salient economic indicator of the structural aftereffects of these sanctioned laws and policies, in essence, a representation of the economic impact of racism on Black lives. They also assert that only the federal government has the resources – economic and otherwise – to fully ameliorate the racial wealth gap. [Darity, p 31.] They caution that any other focus is not truly reparations and diminishes the federal government's responsibility. [Darity, pp 256270]

Several African American organizations support the view that the primary, if not the sole, responsibility for providing reparations should be the federal government's. The National Association for the Advancement of Colored People (NAACP), for example, in its reparations policy, refers only to the federal government's responsibility. [NAACP] The African Descendants of Slavery Foundation (ADOS) has opposed both state and local reparations: its priority is federal legislation: "We view local reparations programs

as very unlikely to achieve their stated purpose of compensating for the economic legacy of slavery. This is because states and localities confront enormous budgetary impediments concerning direct cash payments." ADOS's goal is material (cash) recompense for the material losses of slavery; it does not favor reparations for harms that have occurred since the end of slavery, which state or local programs might include. [ADOS]

In 1989, Representative John Conyers submitted House Resolution 40 (H.R. 40), legislation to create a federal commission to study reparations for African Americans who are descendants of slavery. H.R.40 has been submitted every year since then, with Representative Sheila Jackson Lee inheriting main sponsorship of H.R. 40 after Conyers' death. In the 117th Congress (2021-2023), the bill made it out of committee, with over 190 co-sponsors, but has never made it to the floor for a vote. This lack of action - coupled with a history of federal legislation intended to benefit a public that included African Americans but was administered to further disadvantage them (e.g., the GI Bill) - suggests that reparations may not be expected from the federal government in the near future.

## National Organizations

The Pew Survey did not ask about lower levels of government-- states, cities, and towns-- as providers of reparations. However, two nationally important African American organizations intentionally advocate for reparations locally as well as nationally. Both the National Coalition of Blacks for Reparations in America (N'COBRA) and the National African American Reparations Commission (NAARC) have a history of broad-based advocacy for reparations, N'COBRA since 1987 and NAARC, since 2015. Such advocacy for N'COBRA includes "public education, mobilization, organization…" as a means to obtain racial justice. [NCOBRA, home] N'COBRA seeks reparations from governments and corporations. Its strategies involve advocating for reparative actions at all levels of society – from town hall meetings to city governments to state, federal, and international legislation. N'COBRA supports H.R. 40 and "also supports state and municipal legislative initiatives. Its members have participated in the successful efforts in Michigan, Louisiana, District of Columbia, California, Illinois, Ohio, and other places to obtain resolutions in support of reparations initiatives." [NCOBRA, about]

NAARC "...was established to be an experienced body providing public education on a 10 Point Reparations Plan as a reference and framework for the national discourse on reparations." [NAARC, plan] NAARC also aims to "serve as an authoritative voice on the definition, principles and criteria for reparatory justice projects, proposals and initiatives for cities, states, corporations, financial institutions, colleges, universities, and families." [NAARC, about]

## State Governments

At the state level, only the State of California completed a full reparations report on how that state was complicit in harming Black Americans through the institution of slavery

and its aftermath, including political disenfranchisement, education, housing, and the criminal justice system. The report explains that their extensive policy recommendations are not limited to one set of harms: “The Task Force has formulated these policies to address reparatory needs that cut across the areas of harm documented....” The Task Force’s first recommendation is for a “fully funded independent agency dedicated to advancing all of the recommendations contained in this report.” [CRR, p 635] This sprawling 1000+-page report touches on many of the topics in the LWV study: housing, education, jobs, criminal justice, health, the wealth gap, as well as other topics.

More recently, state Senator Steven Bradford, a leader of the Black Caucus in the California legislature, indicated that the real difficulty with cash reparation payments at the state level in California may be about political will and money. Describing cash payments as the “Reparations Task Force's primary, most headline-grabbing recommendation last summer,” Bradford said that “… conversations with his state house colleagues have made it pretty clear that the political will is just not there…. It’s the will or the budget…they're going to fall back on…we have a $30 billion-plus deficit, so that's going to be enough reason why folks are going to say…we can't do it now.” [NPR]

Our own state of Massachusetts is, at the time this was written, considering legislation to form a commission to study reparations. In early 2023, Senator Liz Miranda introduced S.1053, An Act establishing a commission to study reparations in Massachusetts. [MA Legislature] At the December 2023 Hearing of the Joint Committee of the Judiciary, she described her proposed bill as follows: “This bill creates a commission of up to fifteen members who will conduct research, gather evidence, and compile documentation, related to the history and impact of slavery in MA, as well as identify the lingering negative effects of slavery and discrimination, and recommend ways to rectify these issues by holding hearings, requesting testimony and documents, doing research, and making these recommendations to the MA legislature, for further action, and reparative action for African American Descendants of Slavery....” [MA Testimony] Whatever its future, this bill signifies new energy for reparations in the Massachusetts legislature.

While this bill had a very small number of co-sponsors [MA Legislature] a significant amount of testimony supported the bill, or in some cases, the “spirit” of the bill. Many individuals, on behalf of African Descendants of Slavery (ADOS), stressed the importance of financial compensation as redress for chattel slavery and repeatedly urged the need for the federal government to fulfill its responsibility in this area. They also frequently emphasized the role of Massachusetts as a potential leader in developing a comprehensive national reparations model. Other emphases included the racial wealth gap, the importance of homeownership, and ongoing issues with predatory lending in Massachusetts, health disparities, and moral arguments for reparations. [MA Testimony]

Little or no testimony opposed the idea of reparations at this hearing. Nor could we find any critiques that focus specifically on reparations at the state level in Massachusetts, other than the common concern over letting the federal government off the hook for its responsibility for financial redress. Critiques of the newly formed Reparations Commission in New York State, however, are not hard to find. The critiques focus primarily on general opposition to reparations at any level, particularly the financial redress for chattel slavery. [New York Post]

## Business Enterprises

The role that businesses played in the enslavement of Africans in the US has been largely overlooked until relatively recently. A civil lawsuit in the early 2000s highlighted a claim that corporations like Aetna, Fleet Boston, and the railroad CSX committed "crimes against humanity and supported the institution of slavery by insuring the enslaved and thus "protecting" the investment of enslavers. [Marketplace] While the lawsuit was eventually dismissed, it brought attention to the role that various businesses and corporations played during and after the period of enslavement in the US.

JP Morgan Chase has issued apologies for its involvement in the slave trade. Similarly, Lloyds of London has issued an apology for its role in the slave trade and established a scholarship fund. [Lloyds] Finally, Richard and Leah Rothstein, in their book *Just Action*, focus on how to confront multiple systems, including real estate, banking, and development institutions, which have supported segregated housing. [Rothstein]

All of these efforts shed light on the multi-systemic manner in which racialized harms have been perpetuated, and the consequent need for reparative justice.

## Local Governments and Organizations

FirstRepair, a not-for-profit organization, has had a significant impact on the reparations movement. Founded by Robin Rue Simmons, the alderman who guided the reparations initiative in Evanston, IL, FirstRepair aims "to educate and equip leaders, stakeholders, and allies who are advancing local reparations policies that remedy historic and ongoing anti-Black practices." FirstRepair documents over 20 towns and cities across the country that are studying reparative remedies for Black communities. Among other aspects of their work, they have produced a "toolkit" which is a guide to achieving a reparative plan for a local community. [FirstRepair]

Evanston, IL, was the first local municipality in the US to establish a reparations commission and to pay out benefits to inhabitants of African American descent. Their June 2019 Resolution, entitled, "Commitment to End Structural Racism and Achieve Racial Equity," [Evanston] rolled out a plan to provide financial help from legal cannabis sales, over a 10 year period. [Abraham] The resulting Restorative Housing Fund was

aimed at improving equity in housing for local residents. Other innovations, like the establishment of the Reparations Stakeholders Authority of Evanston (RSAE), demonstrated how efforts at the municipal level can contribute financially. [Spoto] These local reparative efforts also seem to have contributed significantly to positive changes in the public school system. [Evanston video]

Amherst, MA, the second town in the nation committed to a reparations plan, looked to Simmons for advice as the city developed its own plans. After two years of gathering data, the African Heritage Reparations Assembly (AHRA) issued its final report in September 2023. The report emphasizes inclusive eligibility criterion and a multi-faceted reparative approach focused on youth programming, affordable housing, and business grants and training. [AHRA] An ongoing “Truth, Reconciliation and Other Repair” programming, including educating non-Black residents of the town, and memory projects centered on Black history in Amherst is an important component. [Truth]

Dr. Amilcar Shabazz, University of Massachusetts professor and member of Amherst's African Heritage Reparations Assembly, has attempted to bridge the differing reparation strategies, arguing that local reparative movements serve an organizing purpose for that national movement, as well as address local harms that may contribute to the healing of local communities. [AHRA Report] Dr. Shabazz shares his thoughts on reparations work in Amherst in a 2022 video. [Shabazz]

At the local level, Embrace Boston, a reparations coalition, has recently released a harm report detailing racial harms throughout the history of Boston, MA. [Embrace Boston]

Kyle K. Moore, of the Economic Policy Institute, expands on Darity and Mullen’s thinking in regard to state and local reparations in an article entitled, “Five principles for making state and local reparations plans reparative.” He writes, "In addition to acknowledgement and redress, I suggest that any sub-federal reparations plan that aims to be effective should: Specify what harms are being addressed and who will benefit. Stay within its capacity to provide redress for its harm—and avoid absolving the federal government from its responsibility. Commit to structural change designed to prevent future racial injustice.” [Moore]

## Other Institutions and Organizations

Private institutions have attained national attention for engaging in studies which have reevaluated their institutional relationship to both slavery and its long wake. Private universities, including Brown University, Princeton Theological Seminary, University of Virginia, Virginia Theological Seminary, Georgetown University, and Harvard University, have begun to look more closely at their roles in the harm caused by enslavement and ongoing discrimination and to develop ways to provide some repair within their own spheres of influence. The following references describe the work of Brown,

Georgetown, Harvard, and Virginia Theological Seminary: [Brown] [Georgetown] [Harvard] [VirginiaTS]

## Faith-based Groups

Finally, many faith-based groups from the national to the local level, including in Massachusetts, have creatively developed both investigations of their past leaders' involvement with enslavement and their current obligations, based largely on moral grounds, to do what is needed to provide repair for the long standing inequities and ongoing harms that have been perpetuated. The following references describe the work of several Massachusetts faith-based groups. [UU] [First Parish] [Episcopal]

The Grassroots Reparations Campaign, for example, "emphasize[s] the need to speak and hear the truth about the original sins of genocide, slavery, and post-slavery forms of systemic racism." Emphasizing that "reparations is the midpoint between truth and reconciliation," "we engage in interfaith consciousness raising about the need for reparations and have built a coalition of leaders from congregations, faith-based organizations, and ethically centered organizations. Our ultimate goal, in addition to encouraging critical reflection, is for white-dominated organizations to form reparative relationships with Black-led grassroots organizations that will define what reparations looks like for them." The Grassroots Reparations Campaign of the Truth Telling Project is thus oriented toward developing a *culture* of reparations "that emerges from spiritual practice, transformative education, and action." [Truth]

## Conclusion

While a review of the governmental and non-governmental institutions that are studying reparations could not possibly be all-inclusive, the above certainly demonstrates that many organizations are seriously and creatively considering how to provide reparations at local, state, and national levels.

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