

AB-3121

Statutory Analysis

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-An LLM, or Master of Laws, is an internationally recognized graduate qualification in the field of law. The LLM was created for lawyers to expand their knowledge, study a specialized area of law, and gain additional international qualifications.

Legislative History (CA and U.S.) = Lineage

AB-3121 Statutory Provisions = Lineage

Legislative Intent (Secretary Weber)= Lineage

History of Reparations Advocacy (CA and U.S.) = Lineage

U.S. Constitutional Law = Lineage

International Law Examples (Genocide Prevention/GNRs) = Lineage

AB-3121/H.R. 40: Legislative History



- August 10, 1988: Civil Liberties Act of 1988 passed; federal law that granted reparations to Japanese Americans who had been interned by the United States government during World War II. Because the law was restricted to American citizens, and to legal permanent residents, ethnic Japanese who had been taken from their homes in Latin America (mostly from Peru), were not covered in the reparations, regardless of whether they had remained in the United States, had returned to Latin America, or had been deported to Japan after the war.
- December 19 1988: Jesse Jackson and other leaders declared at a news conference the preference of the term 'African American' over 'blacks'.
- January 1989: the late U.S. Congressman John Conyers introduced H.R. 40, less than a month after Jesse Jackson's Dec. 1989 news conference. HR40 is modeled after the lineage specific Japanese American redress bill.
- According to official reports, over 50% of the **Caribbean** foreign-born in the United States arrived after 1990, at least one year **after** Congressman Conyers initially introduced HR-40.
- According to official reports, almost half of the **African** foreign-born in the United States arrived after 2000, 11 years **after** Congressman Conyers initially introduced HR-40.
- 2020: AB-3121 is a carbon copy of HR 40, but for the additional special consideration language located in AB-3121, of which Secretary Weber explained her intent of its inclusion (to acknowledge contributions of free blacks and formerly enslaved Africans prior to both group's official recognition of U.S. citizenship status via the 14th Amendment to the U.S. Constitution).

HR 40, and by extension, AB3121, has not been substantively updated to include reference to black Americans of immigrant origin, by virtue of the missing key terms in the duties section of the statute(s) and its findings/declarations, including but not limited to:

- *'immigration', 'immigrants' 'Caribbean/West Indian', 'African foreign born', 'colonization'. 'American imperialism (as the impetus of the Caribbean and African migration to the United States), or even "global Black diaspora" (as explicitly referred to in NAARC's MacArthur Foundation grant), and other keywords that would infer that HR 40 and AB3121 are intended to include any other group aside from descendants of free blacks and formerly enslaved Africans in the United States ("freed African slaves and their descendants" who "were deemed United States citizens from 1868 to present."*



Assembly Bill No. 3121

CHAPTER 319

**THE PEOPLE OF THE STATE OF
CALIFORNIA DO ENACT AS FOLLOWS:**

SECTION 1. Chapter 4.5 (commencing with Section 8301) is added to Division 1 of Title 2 of the Government Code, to read:



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 1. Findings and Declarations**

8301. (a): "The Legislature makes the following findings and declarations:"

"(1) **More than 4,000,000 Africans and their descendants** were enslaved in the United States and the colonies that became the United States from 1619 to **1865**, inclusive."

Analysis: Article 1. 8301. (a)(1), the first finding in the statute, outlines the intended aggrieved population: "more than 4,000,000 (formerly enslaved) Africans and **their** descendants."

These people came to be known as American Freedmen after March 3, **1865**, when President Abraham Lincoln signed a bill, creating the '*Bureau of Refugees, Freedmen, and Abandoned Lands*'.

Known as the *Freedmen's Bureau*, this federal agency oversaw the difficult transition of African Americans (**freed African slaves and their descendants**) from slavery to freedom.

Apr 51 14 Ken. G. Blair Feb 68 562

Thirty Eighth

Congress of the United States

At the Second Session

BEGUN AND HELD AT THE CITY OF WASHINGTON

in the District of Columbia

on Monday the fifth day of December one thousand eight hundred and sixty four

AN ACT To establish a Bureau for the relief of Freedmen and Refugees.

Be It Enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That there shall be established a Bureau, to be called the Bureau of Freedmen, Refugees, and Underserved Lands, to which shall be committed as hereinafter provided, the supervision and management of all affairs and the control of all subjects relating to negroes and freedmen from rebel States, or from any district of country, within the territory embraced in the operations of the army, and by such rules and regulations as may be prescribed by the head of the Bureau and approved by the President. The said Bureau shall be under the management and control of a Commissioner to be appointed by the President, and with the advice and consent of the Senate, whose compensation shall be three thousand dollars per annum, and such number of clerks as may be assigned to him by the Secretary of War, not exceeding one chief clerk, two of the fourth class, two of the third class, and five of the first class. And the Commissioner and all persons appointed under this act, shall


eighteen hundred and sixty, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year to be ascertained in such manner as the Commissioner may, by regulation, prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying thereof the value of the land, as ascertained and fixed, for the purpose of determining the annual rent appraised.

Sec 5. And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Stephen A. Rice
Speaker of the House of Representatives
No. 1000000000
Vice President of the United States
and President of the Senate

Approved, March 3, 1865

Abraham Lincoln



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 2. 8301.1. (b)**

“The Task Force shall perform *all* of the following duties:

1) *Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 to 1865, inclusive.*

The Task Force’s documentation and examination shall include the facts related to all of the following:”

“(F) The federal and state laws that discriminated against formerly enslaved Africans and their descendants who were deemed United States citizens from 1868 to the present.:”

Analysis: Article 2. 8301.1.(b)(1)(F) is lineage-based; it requires the Task Force to document and examine “federal and state laws” that discriminated against a distinct group or lineage. Who?:

- “formerly enslaved Africans and their descendants...”:
 - describes **African Americans** or American Freedmen as a *distinct* historical and political identifier;
- “who were deemed United States citizens from 1868 to present”:
 - implicitly references the **14th Amendment to the U.S. Constitution** (ratified by U.S. Congress in **1868**),
 - as applied to **formerly enslaved Africans/American Freedmen** and **their living descendants**.

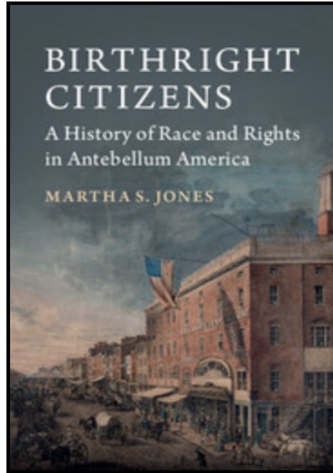
Article 2. 8301.1.(b)(1)(F) does not provide for the documentation or examination of discriminatory “federal or state laws” for any other group, and more particularly, for any other group on the basis of race or skin color.



birthright citizens

BIRTHRIGHT CITIZENS: A HISTORY OF RACE AND RIGHTS IN ANTEBELLUM AMERICA

As former slaves struggled to become citizens, they redefined citizenship for all Americans. Birthright Citizens is their story.



Birthright Citizens tells how African American activists radically transformed the terms of citizenship for all Americans. Before the Civil War, colonization schemes and black laws threatened to deport former slaves born in the United States. **Birthright Citizens recovers the story of how African American activists remade national belonging through battles in legislatures, conventions, and courthouses. They faced formidable opposition, most notoriously from the US Supreme Court decision in Dred Scott.** Still, Martha Jones explains, no single case defined their status. Former slaves studied law, secured allies, and conducted themselves like citizens, establishing their status through local, everyday claims. All along they argued that birth guaranteed their rights. With fresh archival sources and an ambitious reframing of constitutional law-making

before the Civil War, Jones shows how the Fourteenth Amendment constitutionalized the birthright principle, fulfilling the long-held aspirations of African Americans.



CHAPTER 4.5. Reparations for the Institution of Slavery

Article 2. 8301.1 (b)

"The Task Force shall perform all of the following duties:

1) Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 to 1865, inclusive.

The Task Force's documentation and examination shall include the facts related to all of the following:"

"(G) The other forms of discrimination in the public and private sectors against freed African slaves and their descendants who were deemed United States citizens from 1868 to the present, including redlining, educational funding discrepancies, and predatory financial practices.":

Analysis: Art. 2. 8301.1.(b)(1)(G) is explicitly lineage specific; it requires the task force to document and examine **"other forms of discrimination"** in the:

- **"public and private sectors"**, particularly against
- **"freed African slaves and their descendants."**

While Art. 2. 8301.1.(b)(1)(G) mandates the documentation and examination of contemporary or "present"-day harms, such as **"redlining, educational funding discrepancies, and predatory financial practices"**, such recognition is clearly limited to **"freed African slaves and their descendants."**

CHAPTER 4.5. Reparations for the Institution of Slavery

Article 2. 8301.1.(b)

"The Task Force shall perform *all* of the following duties:

1) Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 to 1865, inclusive.

The Task Force's documentation and examination shall include the facts related to all of the following:"

"(H) The lingering negative effects of the institution of slavery and the matters described in this section on living African Americans who are descendants of persons enslaved in the United States (African Americans) and on society in the United States."

Analysis: There has been much conversation about which group/s are particularly impacted by the **"lingering negative effects of the institution of slavery"** (i.e. direct descendants of enslaved Africans in the United States, for instance, or all Black Californians, by virtue of race or skin color).

Article 2. 8301.1.(b)(H) requires the task force to document and examine the legacy of or, in other words, the "lingering negative effects" of slavery, specifically "on living African Americans who are descendants of persons enslaved in the United States (African Americans)".

African Americans' is placed in parentheses to describe descendants of enslaved Africans in the United States. In addition, the term 'society' in this section is race-neutral.



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 1. Findings and Declarations**

Article 1 8301(b): “It is the purpose of this chapter to establish a task force that will do all of the following:

(1) Study and develop reparation proposals for African Americans as a result of:”

“(B) The de jure and de facto discrimination against freed slaves and their descendants from the end of the Civil War to the present, including economic, political, educational, and social discrimination.”

- **Analysis:** Article 1. 8301.(b)(1)(B) mandates the task force develop reparations proposals that account for discrimination from “the end of the Civil War to present” (April 1865- July 2023/2024), particularly against “freed African slaves and **their** descendants.”
- Article 1. 8301.(b)(1)(B) mandates the task force to study and develop reparation proposals based on “de jure or de facto discrimination” or, in other words, contemporary or “present”-day harms, such as “redlining, educational funding discrepancies, and predatory financial practices”; as outlined in the statute, such recognition is limited to “freed African slaves and their (living) descendants” hence the term “**living** African Americans” used throughout the statute.



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 1. Findings and Declarations**

Article 1 8301(b): “It is the purpose of this chapter to establish a task force that will do all of the following:

(1) Study and develop reparation proposals for African Americans as a result of:”

“(C) The lingering negative effects of the institution of slavery and the discrimination described in paragraphs (5) and (6) of subdivision (a) on living African Americans and on society in California and the United States.”

Analysis: Similar to previous statutory provisions, Article 1. 8301.(b)(C) mandates the task force to develop reparation proposals that address the ongoing legacy or negative effects of slavery "on **living African Americans.**"

These **living** African Americans are descendants of persons enslaved in the United States/descendants of American slaves (African Americans).

'African Americans' is placed in parentheses in the duties section of the statute to describe descendants of enslaved Africans in the United States, not to describe any group on the basis of skin color or race.

In addition, the term 'society' in this section is necessarily race-neutral. This further supports the valid assertion that the AB3121 statute is lineage-specific, and not race-based.



**CHAPTER 4.5. Reparations for the
Institution of Slavery**
Article 1. Findings and Declarations

Article 1 8301(b): “It is the purpose of this chapter to establish a task force that will do all of the following:

(1) Study and develop reparation proposals for African Americans as a result of:”

“(D) The manner in which instructional resources and technologies are being used to deny the inhumanity of slavery and the crime against humanity committed against people of African descent in California and the United States.”

- **Analysis:** Article 1 8301(b)(1)(D) mandates the task force to develop reparation proposals that acknowledge resources and technologies that are used to deny a specific “**crime against humanity**” committed against a particular lineage of people in California and the United States, who are “**freed African slaves and their [living] descendants.**”
- This further supports the valid assertion that the AB3121 statute is lineage-specific, and not race-based.



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 2. 8301.1. (b)**

**“The Task Force shall perform
all of the following duties:**

(3) Recommend appropriate remedies in consideration of the Task Force’s findings on the matters described in this section. In making recommendations, the Task Force shall address, among other issues, all of the following”:

“(B) How the State of California will offer a formal apology on behalf of the people of California for the perpetration of gross human rights violations and crimes against humanity on African slaves and their descendants.”

Analysis: Article 2.8301.1.(b)(3)(B) specifies a particular group; it requires the task force to address how the State of California will offer a formal apology on behalf of the people of California to **“African slaves and their descendants”**, not to ‘all Black Californians’, on the basis of race or skin color.

Under international law, the apology (symbolic) governs the universe of material reparations to follow...



CHAPTER 4.5. Reparations for the Institution of Slavery

Article 2. 8301.1. (b)

“The Task Force shall perform *all* of the following duties:

(3) Recommend appropriate remedies in consideration of the Task Force’s findings on the matters described in this section. In making recommendations, the Task Force shall address, among other issues, all of the following”:

(C) How California laws and policies that continue to disproportionately and negatively affect **African Americans as a group** and perpetuate the **lingering** material and psychosocial effects of slavery can be eliminated.”

Analysis: Article 2. 8301.1.(b)(3)(C) is highlighted to further illustrate the aforementioned provisions, particularly Article 2 8301.1. (a)(b)(1)(F)(G) and (H), which all refer to **'African Americans' as a particular group or lineage comprised of "formerly enslaved Africans and their descendants"** that remain affected materially and psychosocially by the institution of slavery.



CHAPTER 4.5. Reparations for the Institution of

Slavery

Article 2. 8301.1. (b)

“The Task Force shall perform *all* of the following duties:

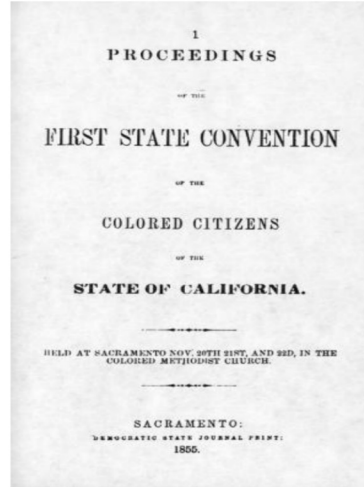
(3) Recommend appropriate remedies in consideration of the Task Force’s findings on the matters described in this section. In making recommendations, the Task Force shall address, among other issues, all of the following”:

“(E) How, in consideration of the Task Force’s findings, any form of compensation to **African Americans, with a special consideration for African Americans who are descendants of persons enslaved in the United States**, is calculated.”

Analysis: In January 2022, Secretary Weber provided expert testimony on Article 2.8301.1.(b)(3)(E) i.e. special consideration language. She made clear special consideration language was included to acknowledge contributions of **free people of color and enslaved Africans and their descendants**, all of which became American Freedmen in 1865 by virtue of opening of Freedmen's Bureau, and subsequently United States citizens in 1868, by virtue of U.S. Congress ratifying the 14th Amendment to the U.S. Constitution.

THE CONVENTIONS OF COLORED CITIZENS OF THE STATE OF CALIFORNIA (1855-1865)

FEBRUARY 4, 2009 / CONTRIBUTED BY: [HERBERT G. RUFFIN II](#)



California Colored Convention proceedings cover page, 1855

Public domain image

The four California Colored Conventions held between 1855 and 1865 were a response to blacks being treated as second-class citizens and constantly threatened and violently assaulted by white men without legal and political recourse in Gold Rush era California. The first convention in 1855 marked the beginning of organized civil rights activism in the American West.

learn

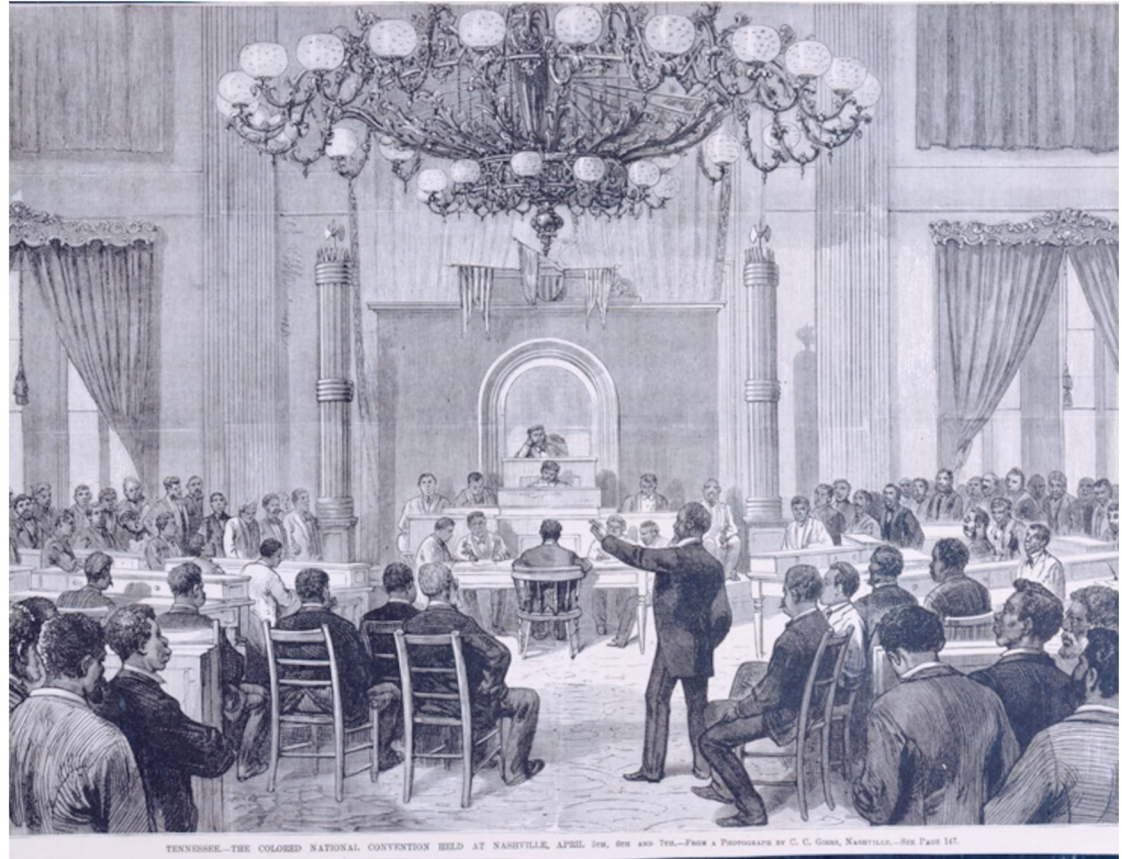
600state

**#blackhistory: On
November 20, 1855,
delegates representing
ten of California's
twenty-seven counties
met at St. Andrews
AME Church in
Sacramento for the first
California Colored
Convention**

CAAM Web Staff

Wednesday, November 20, 2019

share



TENNESSEE.—THE COLORED NATIONAL CONVENTION HELD AT NASHVILLE, APRIL 30th, 6th AND 7th.—FROM A PHOTOGRAPH BY C. C. GIBBS, NASHVILLE.—SEE PAGE 147.



**CHAPTER 4.5. Reparations for the
Institution of Slavery
Article 2. 8301.1. (b)**


**“The Task Force shall perform
all of the following duties:**

(3) Recommend appropriate remedies in consideration of the Task Force’s findings on the matters described in this section. In making recommendations, the Task Force shall address, among other issues, all of the following”:

“(G) How, in consideration of the Task Force’s findings, any other forms of rehabilitation or restitution to African descendants are warranted and what form and scope those measures should take.”

Analysis: Under international law, rehabilitation (i.e. free medical or social services) and restitution (i.e. restoration of stolen property) are two of five forms of reparation/remedy for human rights violations.

Article 2.8301.1.(b)(3)(G) clearly provides that any proposals relate to reparations in the form of rehabilitation or restitution are to be limited to "African descendants" which were defined previously throughout the statute as descendants of "freed African slaves" in the United States.



**CHAPTER 4.5. Reparations for the Institution of
Slavery**
Article 1. Findings and Declarations

8301. (a): "The Legislature makes the following findings and declarations:"

"(4) A preponderance of scholarly, legal, and community evidentiary documentation, as well as popular culture markers, constitute the basis for inquiry into the ongoing effects of the institution of slavery and its legacy of persistent systemic structures of discrimination on living African Americans and society in the United States."

Analysis: Similar to Section H, Article 1.8301.(a)(4) declares existing evidentiary documentation constituting the basis of inquiry into the ongoing legacy or negative effects of slavery "on living African Americans", who are descendants of persons enslaved in the United States (African Americans).

Again, 'African Americans' is placed in parentheses in the duties section of the statute to describe descendants of enslaved Africans in the United States, not to describe any group on the basis of skin color or race. In addition, the term 'society' in this section is race-neutral.



**CHAPTER 4.5. Reparations for the Institution of
Slavery
Article 1. Findings and Declarations**

8301. (a): "The Legislature makes the following findings and declarations:

(5) **Following the abolition of slavery**, the United States government at the federal, state, and local levels **continued** to perpetuate, condone, and often profit from practices that continued to brutalize and disadvantage **African Americans, including sharecropping, convict leasing, Jim Crow laws, redlining, unequal education, and disproportionate treatment at the hands of the criminal justice system.**"

Analysis: Article 1.8301(a)(5) is acknowledging a list of chronological or contiguous harms that have persisted following "abolition of slavery", as it affects or impacts a particular lineage or group **(African Americans, previously defined in statute as freed African slave and their descendants)**. This further supports the valid assertion that the AB3121 statute is lineage-specific, and not race-based.



**CHAPTER 4.5. Reparations for the Institution of
Slavery**
Article 1. Findings and Declarations

8301. (a): "The Legislature makes the following findings and declarations:"

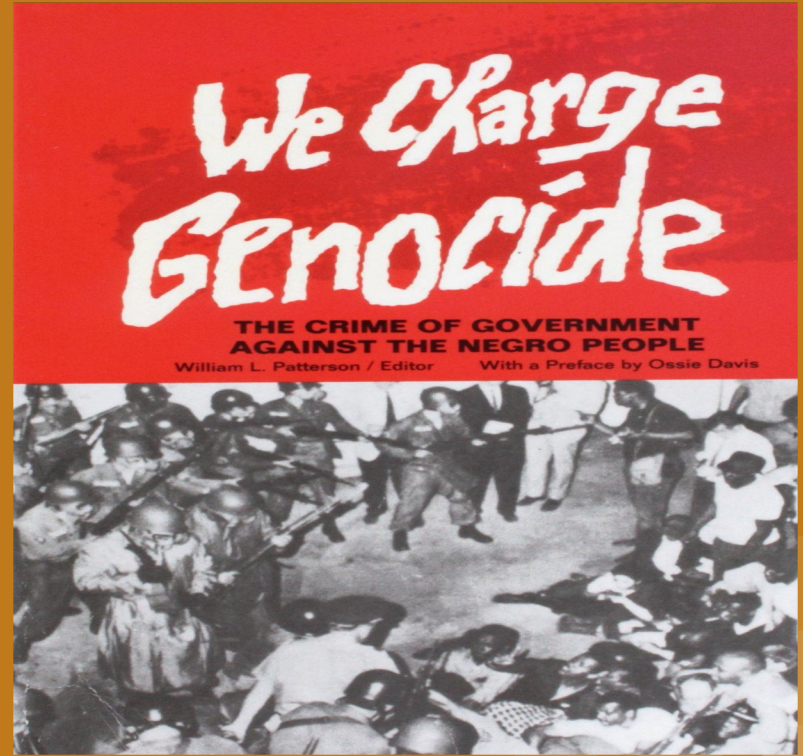
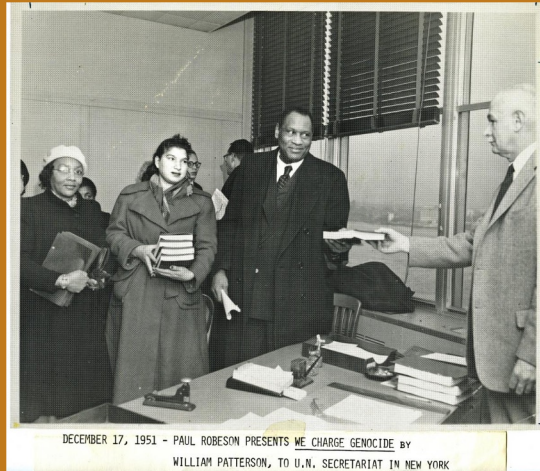
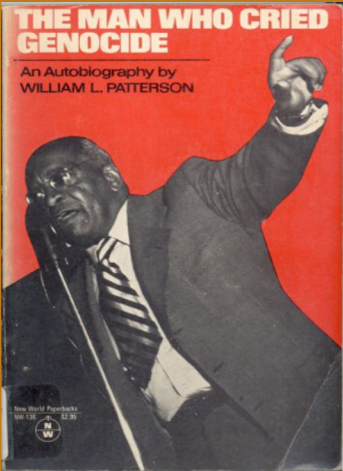
"(6) As a result of the *historic and continued* discrimination, African Americans **continue** to suffer debilitating economic, educational, and health hardships, including, but not limited to, all of the following: (A) Having nearly 1,000,000 black people incarcerated."

Analysis: Article 1.8301.(a)(6) further acknowledges a particular **"historic and continued"** discrimination that persisted following **"abolition of slavery"** as it affects or impacts African Americans, as a particular group or lineage.

In fact, the term 'black' only appears once in the entire statute, and it couched into a provision that recognizes the **specific historic and continued discrimination that 'African Americans'** have faced i.e. mass incarceration, as a particular lineage group.

This further supports the valid assertion that the AB3121 statute is lineage-specific, and not race-based.

Why emphasis on *'Living'* African-Americans? Quick Primer & Recognition: Genocide Convention



The petition charged that the United States violated Article II of the U.N. Convention on the Prevention and Punishment of the Crime of Genocide by failing to prevent the lynching of African Americans.



WE CHARGE Genocide

THE HISTORIC PETITION TO THE UNITED NATIONS
FOR RELIEF FROM A CRIME OF
THE UNITED STATES GOVERNMENT
AGAINST THE NEGRO PEOPLE

U. Wash. Law

ARTICLE II, CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE:

Adopted December 9, 1948

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group."

ARTICLE III:

"The following acts shall be punishable:

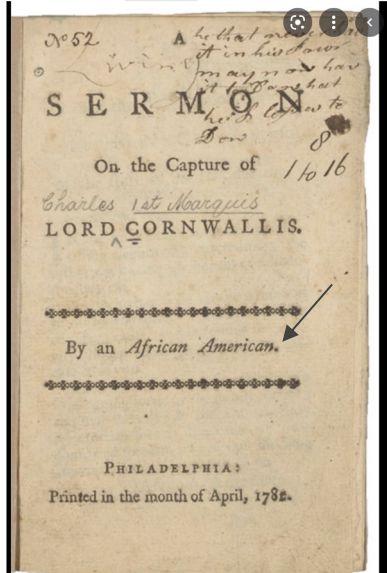
- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide."

Contents

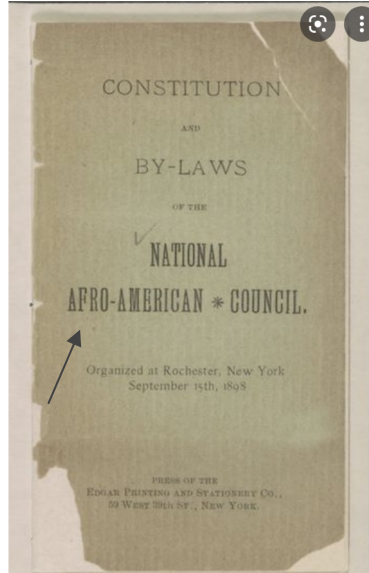
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Did You Know: The Mayflower carried 102 (Europeans); those 102 have 35 million living descendants. 388,000 Africans were forcibly directly imported to United States; 4,000,000 descendants of those 388,000 Africans were freed after Civil War; current African-American population = roughly 40 million; AA population would be much higher if not for slow protracted and ongoing genocide.

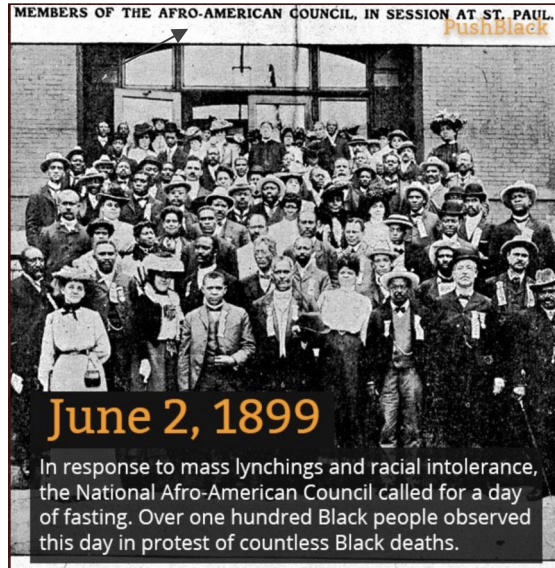
'African-American' as a Distinct Political and Historical Identifier
(18th century to present)



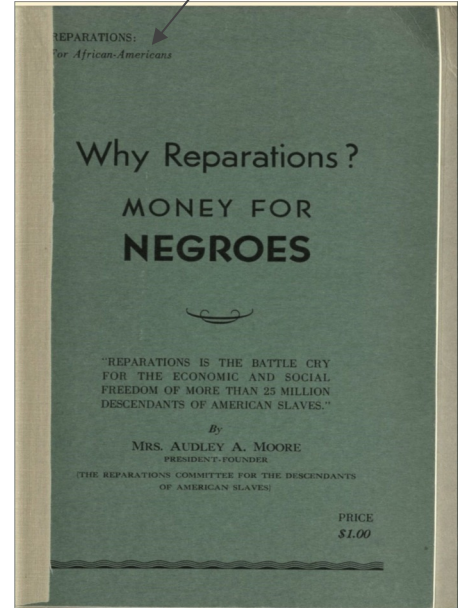
1782



1898



1899



1968

WHY BLACK HOMEOWNERS ARE MORE LIKELY TO BE CARIBBEAN-AMERICAN THAN AFRICAN AMERICAN IN NEW YORK: A THEORY OF HOW EARLY WEST INDIAN MIGRANTS BROKE RACIAL CARTELS IN HOUSING

ELEANOR MARIE LAWRENCE BROWN*

ABSTRACT

Why are the black brownstone owners in Harlem and Brooklyn disproportionately West Indian? The landlords, West Indian-American? The tenants African-American? These are tough questions. For students of housing discrimination, West Indian Americans have long presented a quandary. If it is reasonable to assume that racial exclusions are being consistently applied to persons who are dark-skinned, one would expect to find that housing discrimination has had similar effects on West Indian-Americans and African-Americans. Yet this is not the case: West Indian-Americans generally own and rent higher quality housing than African-Americans.

Moreover, these advantages began long ago. For example, when racial covenants, that is, restrictions barring racial and ethnic groups from owning real property in particular neighborhoods were rife in New York, they were not consistently applied against West Indians, who were sometimes able to

* Eleanor Marie Lawrence Brown, GWIPP Fellow (2013) and Associate Professor of Law (with tenure), George Washington University Law School; J.D., Yale Law School (1999); M.Phil. Politics, Oxford (1997) (Rhodes Scholar). Former Schwartz Fellow, New America Foundation; Former Chairman of the Jamaica Trade Board; Former Reginald Lewis Fellow, Harvard Law School; Former Law Clerk to the Honorable Patricia Wald (ret.), U.S. Court of Appeals for the District of Columbia Circuit; Former Law Clerk to the Honorable Keith Ellison, U.S. District Court for the Southern District of Texas. I have benefited from the Property colloquium at George Mason Law School. Comments received at the Lutie Lytle Conference for Black Female Legal Scholars were particularly helpful. I have also benefited from conversations with or comments from Kendall Thomas, Olati Johnson, Dorothy Roberts, Bernadette Atuahene, Lee Fennell, Guido Calabresi, Frank Upham, Sonya Katyal, Dan Kelly, Paul Butler, Marcella David, Dan Sharfstein, Paulette Caldwell, Mary Dudziak, Nestor Davidson, Ruth Okediji, Jill Hasday, Scott Kieff, Hari Osofsky, Dan Sokol, Camille Gear, Karen Brown, Kevin Johnson, Charles Ogletree, Ken Mack, Steve Legomsky, Beverly Moran, Jim Coleman, Nicole Garnett, Kimani Paul-Emile, Brad Snyder, Devon Carbado, Audrey Bonnett, Calvin Holder, Eduardo Peñalver, Joe Singer, Henry Smith, Richard Brooks, David Martin, Peter Henry, Angela Banks, Angela Onwuachi-Willig, Tomiko Brown-Nagin, Audrey McFarlane, Lant Pritchett, Dillon Alleyne, Neville Lewis, Tony Harriott, Richard Bernal, Eric Posner, Sylvia Lazos, Alison Tirres, Deep Gulasekaram, Naomi Cahn, David Fontana, Carol Rose, Robert Ellickson, Claire Priest, Rose Villazor, Wendy Greene, Ernesto Hernandez-Lopez, Renee Lerner, Jackie Ross, Maximo Langer, Kim Lane Scheppelle, Eric Claeys, Jerry Davila, Daniel Hamilton, and Bob Cottrol. I am grateful to the librarians and/or archivists at the University of the West Indies. Finally, I am grateful for the aid of my research assistants, Jared Stipelman, Shanellah Verna and Jenna Brofsky.

buy into tony neighborhoods. While it is true that such covenants were also inconsistently applied against other ethnic and religious groups such as Jewish New Yorkers, West-Indians still stand out. Since West Indians are overwhelmingly dark-skinned persons of African descent they typically did not have the option of “passing” that may have been available to other groups.

Eschewing more traditional explanations in the civil rights literature, I apply the literature in which racial segregation in real property ownership is conceived as a racial monopoly in which racial cartels appropriate anti-competitive techniques to monopolize access to real property. Maintaining a racial cartel is dependent on white owners maintaining a united front, that is, they must uniformly refuse to sell. Importantly, realtors play a gatekeeping role in real estate and West Indians dominated the realtor sector. As realtors, they were expert at finding defectors, namely, whites willing to break norms of racial exclusivity, in exchange for their ability to extract a premium for selling to blacks early. Brokers then proceeded to buy significant numbers of titles, which were then off-loaded to fellow West Indians. West Indian brokers could act in confidence because they had cash-rich clients and were often buying in trust (de-facto if not de-jure) for fellow West Indians.

In so doing, West Indian brokers in New York were simply replicating techniques that had been utilized by their land-brokering ancestors. I discuss the history that “previews” this period in New York, albeit in a different context: in the British West Indian islands from the migrants originated. There are repeated instances of blacks “busting” white monopolies in land-ownership, throughout the West Indian colonies in contravention of racial norms in the British colonies of who was allowed to own land where. Upon arrival in New York, West Indians encountered another racial monopoly in real property ownership, namely Northern racial segregation. They essentially appropriated the same techniques that they had utilized in the West Indies to break into white neighbourhoods in New York.

History of Lineage-Based Reparations Advocacy in United States and California



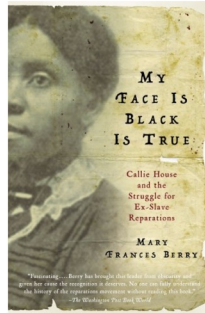
United States:

House explained the political goals of the organization:

If the Government had the right to free us, she had a right to make some provision for us and since she did not make it soon after Emancipation she ought to make it now.

In the podcast, *Callie House, Reparations Advocate and Trailblazer*, professors Mary Frances Berry (author of *My Face Is Black Is True*) and Tiffany Patterson describe how,

Callie House defied societal conventions and led the National Ex-Slave Mutual Relief, Bounty and Pension Association, one of the largest grassroots movements in African American history. House tirelessly traveled the country organizing newly freed African Americans in the quest to right the wrongs of slavery.



Soon after its founding, the Association, and Callie House, were plagued by legal harassment stemming from the government's false claims of fraud. Behind the scenes, government officials worried that the pension movement “is setting the negroes wild, . . . making anarchists of them.”

Callie House (1861-1928)

Source: Zinn Project

California:

REPARATIONS IS THE BATTLE CRY FOR THE ECONOMIC AND SOCIAL FREEDOM OF MORE THAN 25 MILLION DESCENDANTS OF AMERICAN SLAVES

By

Mrs. Audley A. Moore

PRESIDENT-FOUNDER

THE REPARATIONS COMMITTEE FOR THE DESCENDANTS OF AMERICAN SLAVES

PRICE \$1.00

PAGE ONE - FORWARD AND ADDRESS PAGE

Forward

This work is dedicated to the HERALD-DISPATCH newspaper and the REPARATIONS COMMITTEE Inc., for their unselfish, uncompromising determination to contribute toward peaceful solution of the Reparations problem, which will undoubtedly become a social battle cry, in the immediate future, the likes of which this country has never heard heretofore.

Audley M. Moore

REPARATIONS COMMITTEE INC.

1431 West Jefferson Boulevard

Los Angeles 7, California

*The Reparations Committee for United States Slaves
Descendants Inc. (1962)
Founded in Los Angeles, CA*

Source: Arthur Ward

California cont.d:



Therefore, considering our present intolerable status here, the future, if there is to be one, rests on the solution presented. The demand for Reparation must become the first goal of every African American.

History substantiates the justness of our claim. However, of all the people who have received Reparations for wrongs committed against them, none of their claims are as historically or morally compelling as the demand for Reparations for the descendants of American Slaves.

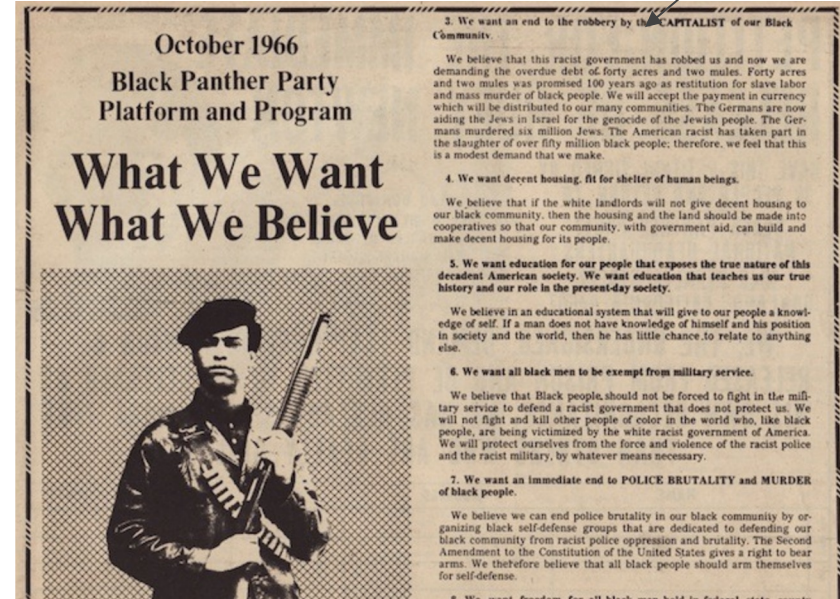
In view of the foregoing, we the descendants of those Africans, uprooted from our homeland, transported to this alien land, and once here – forcibly made to labor without pay for centuries, through the sponsorship of the U.S.A. – do hereby set forth the following claims and demands, as embodied herein.

Claim for Reparations Filed

In commemoration of the 100th anniversary of the Emancipation Proclamation, which became effective January 1, 1863, The Reparations Committee for United States Slaves Descendants Inc., a non-profit corporation organized and existing under and by virtue of the laws of the State of California, filed a claim for Reparations and money damages with the United States Government on December 20, 1962 – for more than 25 million American Citizens. Members of the Black Race.

THE FIRST CAUSE OF ACTION as filed, sets forth, and proceeds, and sues on behalf of and for the benefit of a class consisting of approximately 25 million Americans of African descent, whose antecedents and ancestors before them, until 1863, were held in cruel and inhuman slavery. The claimants ask for Reparations in

*The Reparations Committee for United States
Slaves Descendants Inc. (1962)
Founded in Los Angeles, CA*



*The Black Panther Party for Self-
Defense (1966-1982)
Founded in Oakland, CA*

The Trend Towards Data Disaggregation



South Florida Caribbean News · January 21, 2020

4 7 2 minutes read



Felicia J. Persaud

NEW YORK – For the first time in the history of the U.S. Census, persons from the Caribbean region and those with roots there will now be able to write in their nationality or ancestry on U.S. Census form this March, thanks in large part to the vision and fierce advocacy of one Caribbean immigrant.

Twelve years after the Carib ID lobbying movement started by Caribbean entrepreneur and advocate Felicia J. Persaud begun, Caribbean immigrants and those with Caribbean ancestry will for the first time be able to self-identify on US Census forms while still identifying with the race group they choose.

The option comes following an intense lobbying effort started Persaud in 2008 for better self-identification for Caribbean immigrants in the U.S. on Census forms. A congressional bill, a US

Senate bill and over a decade of advocacy, the choice is here.

Now for example, under the category “Black or African American” on Census forms, black Caribbean nationals will now be able to choose the race group while writing in for example Guyanese, Jamaican, Haitian etc. while those who identify as Asian or another ethnic group will also be able to do the same.

- See also: [Importance of the Data](#)

Persaud called the 2020 form the Census a “progressive” resolution to the problem of lack of self-identification for Caribbean immigrants on past forms and now hopes that those from the region who live in the US and those with Caribbean roots will take full advantage of counting themselves present in this Census.

“Data on Caribbean nationals in the US is currently sparse based largely on the fact that this bloc has had no previous opportunity to self-identify in the past but have been lumped in with the African American, Asian American or Other communities,” said Persaud. “Hopefully this goes a long way in making sure we count in 2020 so we can receive the respect we deserve as a huge economic and political bloc in this country and our communities and businesses that have been dismissed because of a lack of economic data, can begin to thrive. Let’s stand up and be counted.”

GENERAL | PRESS STATEMENT PRESS RELEASE

Victory After Over a Decade of Advocacy: Asian American Pacific Islander Community Commends NY Governor Kathy Hochul for Signing Data Disaggregation into Law

December 23, 2021

NEW YORK -- The [Coalition for Asian American Children and Families \(CAAF\)](#) applauds Governor Kathy Hochul for signing NYS Bill A8896 on Asian American and Native Hawaiian/Pacific Islander (AA and NH/PI) data disaggregation into law. **After more than ten years of advocacy by our coalition, this is a momentous occasion for AA and NH/PI New Yorkers.** We are thankful for Governor Hochul's commitment to the AA and NH/PI community and

“We need every single Caribbean national in the U.S. to make sure they count by filling out the form, writing in their ancestry and returning it,” said Carib ID’s Felicia Persaud on Thursday. “Census numbers determine every aspect of our lives in this country and right now we are largely invisible as we have no accurate means of identification on the form. We must make sure we end this trend by counting not just our ethnicities but our nationalities this Census so we can all win. Or we can continue to be fools and maintain the cycle of dismissal.”

AB-1604: Set FOR Hearing

AB-1604 Measure Set For Hearing



California
LEGISLATIVE INFORMATION

Please do not reply to this automated message

TRACKING NOTIFICATION:

AB-1604: The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.

has been Set FOR Hearing ON 16-MAR-22 9 a.m.



Primer: International Human Rights Law

Under international law, reparations is a victim-oriented and victim-led process and, as such, require the participation of victims (**freed African slaves and their descendants** who were **deemed United States citizens from 1868 to present**, as outlined in statute).

There are five categories of reparations under international law: (1) restitution, (2) compensation, (3) rehabilitation, **(4) satisfaction, and (5) guarantees of non-repetition.**

How do international courts interpret compensation eligibility for human rights violations?

“(i) Beneficiaries of Compensation.

The victims of human rights violations adjudicated by the **Inter-American Court** are, of course, the primary beneficiaries of the reparations awarded. For purposes of its reparations mandate, the Court has distinguished between **two types of victims: those immediately injured by the violation, the direct victim, and his or her next of kin, who later suffer the consequences of their loved one's ordeal.**³⁶

Under certain circumstances, **the next of kin may themselves become direct victims of violations** under the Convention in their own right, as when the state fails to duly investigate or punish the perpetrators of the crime suffered by their family member.³⁷

In any event, the term **'injured party'** in Article 63(1) of the American Convention refers both to the **direct victim** of a human rights violation as well as any other persons, usually **close family members or dependants**, who as a result experience material loss, personal suffering or prejudice to other basic values.³⁸

Source: The Handbook of Reparations (Kindle Locations 7861-7866). Kindle Edition.



The Law of Never Again: Guarantees of Non-Repetition

Guarantees of non-repetition is tied to satisfaction and “re-establish[es] justice in a wide sense. They institute political, judicial and even social processes to combat the **ultimate causes** of the violations and impunity. **However, the States do not fulfil these reparations promptly or completely.** For instance, the verification of the facts and the public revelation of the truth, or a declamatory failure in are actually the ones least fulfilled by the States [Inter-American Court of Human Rights].”

Recognition of limited power: American society is so incredibly polarized on the issue of the institution of slavery and its effects that we will probably not see **complete** guarantees of non-repetition in our lifetimes (i.e. prison or police abolition). Therefore, this form of reparations should not deter from a lineage-based approach.

Further, guarantees of non-repetition and lineage-based reparations are **not** mutually extensive. Also, AB-3121 requires the task force to craft collective forward-looking remedies with a specific group in mind (i.e. California must apologize to “freed African slaves and their descendants”), which supports such contention. Because other groups **may incidentally benefit** (either by virtue of sharing same race/skin color or experience of harm), does not preclude the duty of the task force to astutely craft lineage-specific GNRs.

“Under international law, the first duty of an infringing state is to put an end to the illicit act, if it persists, and then to guarantee that it will not reoccur. To suspend or cease the action in violation is **not necessarily a complicated endeavor**. For instance, the Inter-American Court may determine that a person arbitrarily detained during the ongoing judicial proceedings should be released.”

- Ex. of U.S. Based Lineage-Specific GNR:
 - **Recommend Passage of ACA3** (which would place a state constitutional amendment on the ballot to remove a clause in California's Constitution that allows the practice of involuntary servitude.
 - **California** (and United States) **Release All Political Prisoners Who Are Descendants of Enslaved Africans/American Slaves** (also aligns w/ victim-led lineage based reparations advocacy organizations, like Black Panther Party for Self Defense)

When the illegal act entails a **more complex violation** of the Inter-American American Convention, the Court will order appropriate measures. [Ex. of GNR Outside U.S.]:

- “In the *Mayagna Awns Tingni Case*, where the communal property of an indigenous tribe was exploited economically by the state in detriment of the group and its members' property rights, the Court, to put an end to the ongoing exploitation, **ordered the state to `abstain from carrying out ... actions that might lead the agents of the state itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located in the geographical area where the members of the Community live and carry out their activities.**”

. The Handbook of Reparations (Kindle Locations 8078-8084). Kindle Edition.



U.S. Context: Reparations in the form of guarantees of non-repetition as it's applied to reparations for the institution of slavery is inherently lineage specific and must be informed by Section 2 of the Thirteenth Amendment to the U.S. Constitution:

AB-3121. Article 2. 8301.1.(b)(3)(C): **How California laws and policies that continue to disproportionately and negatively affect African Americans as a group and perpetuate the lingering material and psychosocial effects of slavery can be eliminated."**

"A number of the measures **considered as part of restitution or satisfaction and guarantees of nonrepetition** also may have clear **psychosocial** implications for victims and their societies. Specifically, diverse actions aimed at restoring or establishing victims' equality and dignity as human beings and as citizens respond to their right to know and permit mourning, **psychological** processes identified by many as important in social reconstruction and reconciliation."

. The Handbook of Reparations (Kindle Locations 9045-9047). Kindle Edition.

Logic regarding GNRs pertaining to the institution of slavery: the State harmed direct victims (freed African slaves) and their descendants; other groups have incidentally been harmed as result (Black immigrants and people of color); The State must remedy direct victims and their descendants (lineage-specific not race-based); other groups may incidentally benefit...

ARTICLES

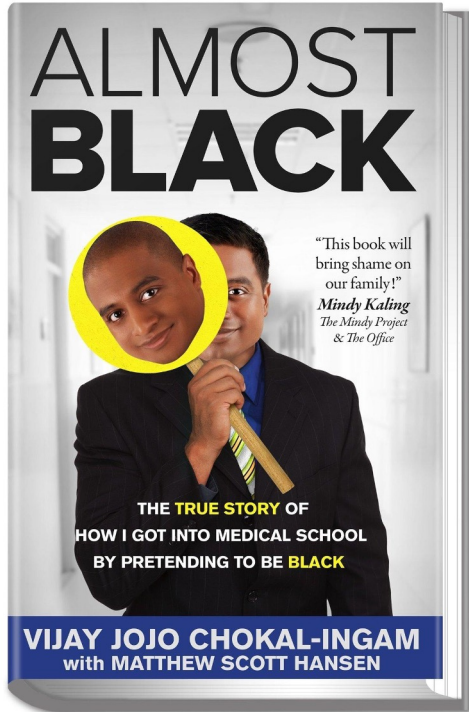
DEFINING THE BADGES AND INCIDENTS OF SLAVERY

*Jennifer Mason McAward**

Most agree that Section 2 of the Thirteenth Amendment empowers Congress to legislate regarding the "badges and incidents of slavery." Few, however, have explored in depth the precise meaning of this concept. The goal of this Article is to provide a historical and conceptual framework for interpreting and identifying the badges and incidents of slavery. It examines the original public meaning of the terms "badge of slavery" and "incident of slavery" as well as how the "badges and incidents" concept has been incorporated into and used in Thirteenth Amendment jurisprudence. It considers several analytical variables from historical, jurisprudential, and policy perspectives, including what populations Congress can protect; what actors Congress can regulate; and what types of conduct Congress can target under its Section 2 power.

Ultimately, this Article concludes that the best understanding of the "badges and incidents of slavery" refers to public or widespread private action, aimed at any racial group or population that has previously been held in slavery or servitude, that mimics the law of slavery and has significant potential to lead to the de facto reenslavement or legal subjugation of the targeted group. This limited definition will assist Congress in identifying ways in which it can fulfill the Thirteenth Amendment's promise of universal civil and political freedom. At the same time, it will provide judicially enforceable limits for the exercise of the Section 2 power.

How Do You Measure Blackness? Who Qualifies?



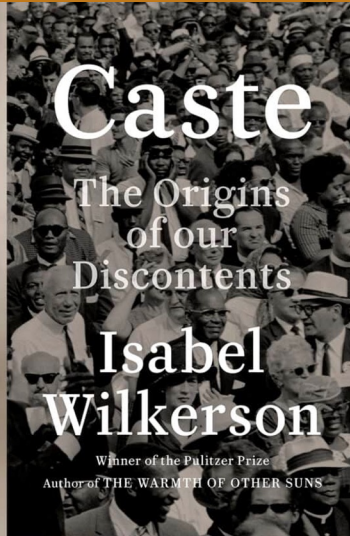
CONGRESSIONAL RECORD— SENATE S10499-S10500

The most important examples involve the Freedmen's Bureau, created in 1865 as a means of providing special benefits and assistance for African Americans. The opponents of the Freedmen's Bureau Acts attacked the bureau on, the ground that it would apply to members of only one race. The response was that discrimination was justified in the interest of equality: "We need a freedmen's bureau," said one supporter. "not because these people are negroes, but because they are men who have been for generations despoiled their rights."

Curiously, fundamentalists don't investigate the pertinent history, but one of the explicit goals of the Fourteenth Amendment was to provide secure constitutional grounding for the Freedmen's Bureau Acts. It is peculiar at best to think that the Fourteenth Amendment prohibited the very types of legislation it was designed to legitimate. Voting to strike down affirmative-action programs, fundamentalists haven't offered a hint of a reason to think that such programs are inconsistent with the original understanding.



Caste: It's More Than Racism



There, I told the audience that I had written a six-hundred-page book about the Jim Crow era in the American South, the time of naked white supremacy, **but that the word racism did not appear anywhere in the narrative.** I told them that, after spending fifteen years studying the topic and hearing the testimony of the survivors of the era, **I realized that the term was insufficient. Caste was the more accurate term,** and I set out to them the reasons why. They were both stunned and heartened.

Wilkerson, Isabel. *Caste* (Oprah's Book Club) (p. 30). Random House Publishing Group. Kindle Edition.

Caste: Race Is *Insufficient*

- A caste system is an artificial construction, a fixed and embedded ranking of human value that sets the presumed supremacy of one group against the presumed inferiority of other groups on the basis of ancestry and often immutable traits, traits that would be neutral in the abstract but are ascribed life-and-death meaning in a hierarchy favoring the dominant caste whose forebears designed it. A caste system uses rigid, often arbitrary boundaries to keep the ranked groupings apart, distinct from one another and in their assigned places.
- The hierarchy of caste is not about feelings or morality. It is about power—which groups have it and which do not. It is about resources—which caste is seen as worthy of them and which are not, who gets to acquire and control them and who does not. It is about respect, authority, and assumptions of competence—who is accorded these and who is not.
 - In America, race is the primary tool and the visible decoy, the front man, for caste.
- While this book seeks to consider the effects on everyone caught in the hierarchy, it devotes significant attention to the poles of the American caste system, those at the top, European Americans, who have been its primary beneficiaries, and those at the bottom, African-Americans, against whom the caste system has directed its full powers of dehumanization.
- Black immigrants discover that because they look like the people consigned to the lowest caste, the caste system rewards them for doing the opposite of the Europeans. “While white immigrants stand to gain status by becoming ‘Americans,’” wrote the sociologist Philip Kasinitz, “by assimilating into the higher status group—black immigrants may actually lose social status if they lose their cultural distinctiveness.”
- The caste system encourages black immigrants to do everything they can to build distance between themselves and the subordinated caste they might be taken for. Like everyone else, they are exposed to the corrosive stereotypes of African-Americans and may work to make sure that people know that they are not of that group but are Jamaican or Grenadian or Ghanaian.



Legislative History (CA and U.S.) = Lineage

AB-3121 Statutory Provisions = Lineage

Legislative Intent (Secretary Weber) = Lineage

History of Reparations Advocacy (CA and U.S.) = Lineage

U.S. Constitutional Law = Lineage

International Law Examples (Genocide Prevention/GNRs) = Lineage