

NATIONAL BLACK CULTURAL INFORMATION TRUST, INC.

Understanding Comprehensive Reparations

*Forward Thinking and Accessible
Reparations for Black America*

Written and curated by Jessica Ann Mitchell Aiwuyor

Available on AboutReparations.org and NBCIT.org

Contact: info@NBCIT.org



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Our Mission

The National Black Cultural Information Trust, Inc. shares cultural information, stories, and resources that uplift the collective freedom of Black communities while correcting cultural misinformation.

Understanding Comprehensive Reparations was written and curated by Jessica Ann Mitchell Aiwuyor, founder of the National Black Cultural Information Trust, Inc., to provide information and clarity surrounding **Comprehensive Reparations** for the upward mobility, safety, healing, and well-being of Black communities (people of African descent in the United States of America).

What are Comprehensive Reparations

- 1. Comprehensive reparations (Sometimes referred to as harms-based reparations) focus on repairing harms endured by Black communities** (people of African descent) due to chattel slavery, Jim Crow, systemic racism, and their continuing vestiges; and repairing communities with forward-thinking initiatives that safeguard the future of Black America.
- 2. Comprehensive reparations focus on making reparations accessible, inclusive, and constructive.**
- 3. Comprehensive reparations include three primary periods addressing reparative justice for crimes against humanity:** The TransAtlantic Slave Trade, Intra-American Slave Trade and Chattel slavery, Jim Crow/the U.S. Apartheid system, and modern-day systemic racism.

Comprehensive reparations recognize that each period of harm can not be disconnected when seeking to repair injuries on a large scale (especially for state or nationwide initiatives). Some reparations advocates focus only on the period of chattel slavery. However, this limitation does not sufficiently account for ongoing harms, the continuation of enslavement under different names, and the ongoing vestiges of slavery. Contrary to popular belief, many African Americans were not freed directly following the Emancipation Proclamation in 1863. For example, in Texas, many African Americans continued to be enslaved for an additional two years, ending on June 19, 1865 - resulting in Juneteenth.

Additionally, following emancipation, many African Americans were forced to work in slave-like conditions under the sharecropping system well into the 1940s. They also were subject to vagrancy laws that forced them into forms of servitude like convict leasing. Many families affected by this continued oppression still face obstacles to upward mobility. Fair housing was denied to many African American families due to racial discrimination and government policies preventing African Americans from buying homes in various neighborhoods. It wasn't until seven days after the assassination of Martin Luther King, Jr. that the Fair Housing Act was passed. However, the denial of access to homeownership and fair housing has contributed to racial wealth disparities and continues to affect Black America.

What are Comprehensive Reparations

4. Comprehensive reparations are 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. Addressing the racial wealth gap alone does not manage or rectify issues that continue to cause harm to our communities.

5. Comprehensive reparations include repairing harms caused by governments. Comprehensive reparations examine and seek to provide remedies to direct harms inflicted by local and federal laws and policies. For example, some policies addressed by comprehensive reparations include Black Codes in various states, laws preventing access to fair housing for Black Americans, African Americans prevented from G.I. Bill benefits, and more.

6. Comprehensive reparations include repairing harms caused by businesses, religious institutions, and academic institutions. Comprehensive reparations examine and seek to provide remedies to direct harms inflicted by entities that participated in chattel slavery and benefited from the TransAtlantic Slave Trade, IntraAmerican Slave Trades, chattel slavery, Jim Crow, and systemic racism.

What are Comprehensive Reparations

7. Are comprehensive reparations the same as “lineage-based reparations”? No. Comprehensive reparations prioritize accessibility and reject false purity ancestry standards for large-scale reparative justice initiatives. “Lineage-based” reparations are under-inclusive, create costly barriers, and are too restrictive for large-scale local governments, state, and national reparative justice initiatives. Eliminating unnecessary barriers to access is essential for reaching and repairing Black communities. Comprehensive reparations recognize that Black communities have endured centuries of dehumanizing delays and obstacles to reparative justice. Thus, comprehensive reparations reject false and invasive purity standards and redirect focus on documented harms done to our communities. So-called lineage-based reparations place the onus of proof and belonging back on Black Americans that have experienced centuries of varying injuries depending on location, socio-economic status, etc.

Requiring extensive genealogical background checks (even those promoting the concept of negative proof) would delay or serve as additional time-consuming or costly barriers (potentially millions of dollars) that would deny timely repair for communities in need. This money and time could instead be used towards reparative justice initiatives. **Comprehensive reparations** focus on repairing harms and not punishing Black communities for lack of slavery documentation by focusing on continual injuries for historical accuracy and accessibility. Comprehensive reparations advocate other verifiable standards to gauge the needs and distribution of reparative justice resources to communities.

8. Comprehensive reparations include African Americans and descendants of Africans harmed by the vestiges of slavery in the United States (regardless of national origin). Comprehensive reparations uplift that Descendants of Africans Enslaved in the United States (DAEUS) or descendants of free or maroon Black communities are owed reparations, and people of African descent residing in the United States that were also harmed by the vestiges of slavery and Jim Crow, regardless of national origin, are also owed forms of reparative justice.

What are Comprehensive Reparations

The enslaved ancestors of Black America were primarily from multi-ethnic groups of West and Central Africans. The harms of chattel slavery and Jim Crow relegated them as property instead of human beings based on being a person of African descent. The United States did not give birthright citizenship to African Americans until Congress passed the 14th amendment on June 13, 1866, and ratified it on July 9, 1868.

This system captured Africans from the continent and exchanged them throughout the Intra-American slave trade, constantly moving enslaved Africans across international borders. As a result, descendants of Africans enslaved in the United States share lineages and experiences with other African descendants in the Diaspora, for example, in Barbados, Haiti, Jamaica, Trinidad, Dominican Republic, Mexico, and Canada.

Enslaved Africans were primarily taken from West and Central Africa, among various ethnic groups including but not limited to Kongo/Angolan (Mbundu), Igbo, Yoruba, Ashanti, Bakongo, Fon, Mandé/Mandinka, Fulani, Abron, Wolof, Chamba, and more.

The harms against African descendants in the United States have always been multi-ethnic and multi-national. Thus, reparative justice for these harms must include remedies for all persons of African descent who were harmed in the United States or are descendants of harmed communities in the United States, regardless of their ethnic background or national origin.

Based on current population and historical calculations, the vast majority of reparative justice recipients will be African American (Descendants of Africans Enslaved or free in the United States), and a smaller number of recipients will be African descendants of Black immigrant populations. For example, the Afro-Caribbean population in the early 1900s and following endured Jim Crow, systemic racism, and other continuing vestiges of slavery that should also be remedied.

What are Comprehensive Reparations

9. Comprehensive reparations can also include direct family-based repair, providing remedies to descendants of harmed persons in specific families or neighborhoods.

Since this often requires different and complex types of verification, this is best utilized for smaller-scale reparative justice initiatives. Examples of family-based reparative justice include Georgetown University's slave descendants, Bruce's Beach, Tulsa Race Massacre survivors and descendants of survivors, Gullah Geechee family land lost, and Evanston, Illinois housing discrimination survivors. In these cases, the descendants of harmed families can be directly remedied by at-fault parties on a case-by-case basis, at a smaller scale that prioritizes accessibility.

Supplementary Materials

UNITED NATIONS ENTITY FOR GENDER EQUALITY AND THE EMPOWERMENT OF WOMEN – REPARATIONS, DEVELOPMENT AND GENDER, REPORT OF THE KAMPALA WORKSHOP 1-2 DECEMBER 2010– PREPARED BY UN WOMEN AND UNDP

A. Reparations

i. Definition and Understanding of Reparations

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law outline the international legal framework for the right to a remedy and reparations. According to the Basic Principles, States are under legal obligation to provide reparations for gross violations attributable to them, as are persons found liable for relevant war-time violations. States are also obligated to endeavor to provide repair and redress for victims in circumstances where those directly responsible are unwilling or unable to meet their obligations, in particular through the establishment of reparations programmes.

The UN Basic Principles recognize the following five forms of reparations:

- 1) restitution: restoration of a victim's rights, property, citizenship status;
- 2) rehabilitation: psychological and physical support;
- 3) compensation;
- 4) satisfaction: acknowledgement of guilt, apology, burials, construction of memorials, etc.; and
- 5) guarantees of non-repetition: reformation of laws and civil and political structures that led to or fueled violence.

Supplementary Materials

United Nations Entity for Gender Equality and the Empowerment of Women - Reparations, Development and Gender, Report of the Kampala Workshop 1-2 December 2010- Prepared by UN Women and UNDP

The different forms of reparations can be administered individually and/or collectively, in material and/or symbolic forms and in synergy with other post-conflict justice efforts to satisfy victim needs and demands for justice.

Reparations programmes should be comprehensive and complex; they should include elements that are material and symbolic, collective and individual, immediate and ongoing, and that involve pecuniary measures, as well as ensuring access to essential services.

Source: <https://www.un.org/ruleoflaw/files/Kampala%20workshop%202011-%20Reparations,%20Development%20and%20Gender.pdf>

Supplementary Materials

NATIONAL AFRICAN AMERICAN REPARATIONS COMMISSION TEN POINT REPARATIONS PLAN SUMMARY:

1. Apology & Maafa Institute

A Formal Apology and Establishment of an African Holocaust (Maafa) Institute

2. Repatriation

The Right of Repatriation and Creation of an African Knowledge Program

3. Land

The Right to Land for Social and Economic Development

4. Funds

Funds for Cooperative Enterprises and Socially Responsible Entrepreneurial Development

5. Health & Wellness

Resources for the Health, Wellness and Healing of Black Families and Communities

6. Education

Education for Community Development and Empowerment

7. Housing & Wealth Generation

Affordable Housing for Healthy Black Communities and Wealth Generation

8. Info & Comms Infrastructure

Strengthening Black America's Information and Communications Infrastructure

9. Sacred Sites & Monuments

Preserving Black Sacred Sites and Monuments

10. Criminal Justice System

Repairing the Damages of the "Criminal Injustice System"

Supplementary Materials

THE FIVE INJURIES OF SLAVERY (DEFINED) BY THE NATIONAL COALITION OF BLACKS FOR REPARATIONS IN AMERICA (JULY 29, 2015)

Informed, honest historians and social scientists acknowledge the lingering affects of slavery on present day African American life. Accordingly, in 1996 and 1997, the N'COBRA Legal Strategies Commission, chaired by Attorney Adjoa A. Aiyetoro, set out to develop an approach to reparations litigation. The commission's work led to the identification and documentation of the five "injury areas" suffered by African people during and after enslavement.

THE FIVE "INJURY AREAS" INCLUDE:

1. Peoplehood/Nationhood

The destruction of African peoples' culture, and the infringement of the larger culture upon Black people of African descent in the United States and the prior colonies. 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 African Descendants' efforts to be self-determining have been met with violence and destruction as evidenced by the untold numbers of Black 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.

2. Education

The denial of our right to an education started in slavery with criminal sanctions imposed on our enslaved ancestors who learned, and anyone who taught them to read or write. Maintenance of dual, separate but unequal systems from slavery to the present provided an inferior education in schools with predominantly Black students of African ancestry. Federal funds were often provided schools despite this dual education system – one predominantly Caucasian and the other for predominantly Black students of African ancestry.

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THE FIVE INJURIES OF SLAVERY (DEFINED) BY THE NATIONAL COALITION OF BLACKS FOR REPARATIONS IN AMERICA (JULY 29, 2015)

3. Criminal Punishment

The enslavement of African peoples necessitated the development of a dual punishment system that continues to exist in the U.S. This dual system punishes Black people of African descent more harshly than Caucasians for the same conduct. Examples of the dual system were found from the period of enslavement through the Jim Crow era. The ongoing discrimination is most vividly evident with the continuation of disparate punishments for crack and powder cocaine (Black people of African ancestry are more frequently charged with possession of crack and certified to the federal system where a Caucasian person would have to possess 100 times more powder cocaine than crack cocaine to receive the same punishment).

The result has been a disproportionately higher number of Black people of African descent being incarcerated for violation of the drug laws). In addition, Black people of African descent are subjected to racial profiling and the disparate imposition of the death penalty where Black men are more likely to be charged and convicted of a capital offense than a similarly situated Caucasian and particularly for killing a Caucasian.

4. Wealth/Poverty

The wealth gap between Black people of African descent and Caucasians created during the enslavement of African peoples has been sustained; confiscation of land and other forms of wealth continue up to present day. Black people of African descent were forced into poverty through enslavement, Jim Crow and continuing discrimination in employment, housing and other economic areas.

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5. Health

The focus is on physical and mental health. Health knowledge of enslaved Africans was appropriated and enslaved Africans functioned as non-paid health care providers for others; the use of Black people of African descent as subjects for tortuous health experiments (Tuskegee Syphilis Study) and the denial of quality health care during and post-slavery.

The health injury area also includes 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. Finally, this injury area includes an examination of post-slavery stress syndrome, a developing area of investigation by Black mental health professionals of African descent.

Supplementary Materials

**NKECHI TAIFA, ESQ FOUNDER OF THE REPARATION EDUCATION PROJECT;
SUBMITTED FOR THE RECORD BEFORE THE HOUSE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES**

Reparations is the act or process of repairing or restoring. It is payment for an injury; redress for a wrong done. International law has identified the following criteria for reparations: Restitution, Compensation, Rehabilitation, Satisfaction, and Guarantees of Non-Repetition. Supplementing these fundamentals the international community has recognized as critical to achieve reparatory justice, I also submit that in the specific context of Black people in the United States, the quest for reparations must encompass the following four elements:

- 1) the formal acknowledgment of historical wrong and an official, unfettered apology for the dehumanization and atrocities of the enslavement era and its legacies,
- 2). the recognition that the injury continued throughout the years including the Jim Crow/apartheid eras with injurious inequitable policies and practices that still manifest today, in the areas of economics, education, health, punishment, culture and lack of the right to self-determination,
- 3) the commitment to redress by all culpable parties, including the federal government, state and local governments, private and corporate entities, industries, and academic and religious institutions which enjoyed unjust enrichment, and 4) the actual compensation, in whatever form or forms are agreed upon.

The harms from the enslavement era and post-slavery degradation were multi faceted, thus the remedy must be so as well. While cash payments/direct benefits are an important and necessary component of any claim for damages, a reparations settlement can be fashioned in as many ways as necessary to equitably address the countless manifestations of genocidal treatment sustained from chattel slavery and its continuing vestiges.

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Some forms of community benefit redress for consideration could include land, housing, economic and community development, cessation of taxation, and the right to self-determination. Other amends may embrace repatriation resources, scholarships, truthful textbooks, and the erection of monuments and museums.

Additional considerations could include commutations and pardons for impacted prisoners from the COINTELPRO era, and repairing the harms from the War on Drugs which was targeted to Black communities. The bottom line, however, is that reparations not be a substitute for ordinary public policy. The intent must specifically and sufficiently be tied to reparative measures that acknowledge and remedy identified injustices rooted in the historical continuum of the enslavement era through today.

Supplementary Materials

KAMM HOWARD: THE NATIONAL COALITION OF BLACKS FOR REPARATION IN AMERICA, FOR 400 YEARS OF TERROR, AND OTHER EGREGIOUS CRIMES: REPARATIONS MEANS FULL REPAIR (2019)

For us in the movement, we understand that reparations, under international norms and law, means "**full repair**." International law professor, Nora Wittmann, in **Slavery Reparations Time Is Now**, shares with us the basis for full repair. The Permanent Court of International Justice laid out the "*general and foundational rule*" for reparations in the Chorzow Factory Case of 1928. In that ruling, the Court held "that reparation must, as far as possible, wipe out all consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed."

The extent of "all consequences" was fleshed out as **full reparation** in the International Law Commission (2001) *Draft Articles on Responsibility of States for International Wrongful Act*. In Article 31. "... the responsible state is under an obligation to make full reparation for the injury caused by the internationally wrongful act."

The International Law Commission and other established international guidelines lay out what is considered full and **comprehensive reparation**.

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These include:

1. Cessation, Assurances and Guarantees of Non-Repetition – a state responsible for wrongfully injuring a people “is under an obligation to a) “cease the act if it is continuing, b) offer appropriate assurances and guarantees of non-repetition...”
2. Restitution and Repatriation – “re-establish the situation which existed before the wrongful act was committed.” To restore the victim to the original situation before gross violations of international law occurred. How includes restoration of freedom, recognition of humanity, identity, culture, repatriation, livelihood and wealth.
3. Compensation – The injuring State is obligated to compensate for the damage, if damage is not made good by restitution. Compensation is “any financially assessable damage suffered...” Proper compensation is such that is “appropriate and proportional to the gravity of the violation and circumstances.”
4. Satisfaction – “as a “means” for reparations for moral damage, such as emotional injury, mental suffering, and injury to reputation.”
5. Rehabilitation – rehabilitation consist of mind, body, emotional and spirit healing – [of] the lasting effects of the trauma of enslavement and segregation.

Supplementary Materials

ADJOA A. AIYETORO, J.D. : INTERNATIONAL AND DOMESTIC STANDARDS FOR REPARATIONS FOR VIOLATIONS OF RIGHTS OF A GROUP BASED ON THE GROUP'S IDENTITY INCLUDING A CRITIQUE OF CHAIR MOORE'S MARCH 29, 2022 SLIDE PRESENTATION ON ELIGIBILITY SUBMITTED TO CALIFORNIA REPARATIONS TASK FORCE CREATED PURSUANT TO AB-3121- MAY 26, 2022

International Standard for Reparations

The international standards for providing reparations gleaned from United Nations resolutions and reparations protocols established by a number of countries that have developed a reparatory program for violations of human and civil rights similarly show that there is no standard for providing reparations based on lineage. The U.N. documents do not establish a lineage standard. There is also no such "standard" in the reparations protocols of individual countries, although a minority provide reparations to descendants. The standard is that reparations are provided to those who have suffered violations of human rights because of their group identity, primarily although not exclusively at the hands of governments. Indeed, the U.N. documents that focus on historic violations of human rights, such as slavery, focus more on States (countries) developing reparations programs for the continuing legacy of racism that flows from slavery.

- World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerances (WCAR): Declaration and Programme of Action
 - There is no lineage-based requirement for reparations in the WCAR Declaration and Programme of Action. The documents speak to reparations for victims of historic injustices including slavery with a primary focus on taking "appropriate and effective measures to halt and reverse the lasting consequences of these practices."

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- There is no lineage-based requirement for reparations in the WCAR Declaration and Programme of Action. The documents speak to reparations for victims of historic injustices including slavery with a primary focus on taking "appropriate and effective measures to halt and reverse the lasting consequences of these practices."
- The WCAR documents acknowledge that racism and other violations of human and civil rights flow from the historic injustice of slavery and, therefore, reparations should address that legacy. Reparations in these documents are for the racial group that was victimized by slavery in a State (country), whether or not recipients are direct descendants of those enslaved. The documents focus on the injuries to the group that flow from the legacy of slavery.
- Resolution adopted by the General Assembly on 16 December 2005 60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.
 - The resolution identifies the longstanding commitment of the United Nations and international bodies to a right to a remedy and reparations. It indicates that these rights are grounded in the Universal Declaration of Human Rights as well as other international resolutions and statutes.
 - The resolution indicates that victims should receive full reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

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- It recommends that the remedy/reparations should be awarded to the victim of the crime noting that the “contemporary forms of victimization ... while essentially against persons, may also be directed against groups.”
- It defines victims as direct victims, immediate family and dependents and persons who have suffered harm in intervening to assist victims.
- There is no lineage definition of victim except in a very narrow way – to family and dependents – not descendants.
- *Elimination of racism, racial discrimination, xenophobia and related intolerance: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, Contemporary forms of racism, racial discrimination, xenophobia and racial intolerance, United Nations General Assembly Resolution 73/262, Seventyfourth Session, 21 August 2019.*
 - This document is the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Tendayi Achiume. It “addresses the human rights obligations of Member States in relation to reparations for racial discrimination rooted in slavery and colonialism.” It reaches the following conclusion based on the Special Rapporteur’s study and research:

Supplementary Materials

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- ❖ Reparations must address the contemporary, racially discriminatory effects of structures of inequality and subordination that flow from slavery.
- ❖ Reparations concerns both our past and our present. It is not just about individual wrongful acts. The human rights violations of slavery implicate the entire legal, economic, political and social structures that enabled slavery and which continue to sustain its legacy of racial subordination – anti-Blackness.
- ❖ Recommends a structural approach to providing reparations due to slavery's creation of structures that continue to harm those in the group that were victimized by slavery, not just descendants of enslaved Africans, but African Americans, as AB-3121 indicates.
- ❖ Slavery was a dehumanization of persons on the basis of "race" – a social construct that shapes access to fundamental human rights.
- ❖ Victims of the human rights violations of slavery included victims of its legacy and all have the right to full reparations:

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✓ Restitution – returning to pre-violation status

✓ Compensation – value of restitution if restitution not possible

✓ Satisfaction – includes acknowledgment, expression of regret, prevention measures to promote non-repetition.

✓ Complex reparations programs (providing both individual and collective forms of material reparations and symbolic measures) may better suit the needs of victims both direct victims and the targeted group of victims.

✓ Providing reparations for certain members of the group, for example, African American descendants of enslaved Africans, and not all members of the group, for example, African Americans, whose harm stems from the same violations of human rights and international law, ensures there will be ongoing calls for reparations. Restricting reparations to only one sector of the African American community that has been harmed by slavery and its ongoing legacy also fails to address the stigmatization of African Americans that is borne of enslavement and may in fact increase it.