

## 40 ACRES AND A MULE, PLUS INTEREST: A SURVEY ON EMERGING REPARATION AND RACIAL EQUITY MEASURES

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This Essay (part of “The Remnants of Colonization Series” (“Series”)) follows from the 2020 article, “Dreams of Liberation Bound by Bondage,”<sup>3</sup> which shone a spotlight on the brutal reality of how migrant populations from sub-Saharan Africa continue to be victimized by slavery even to this day. This Essay, “40 Acres and a Mule, Plus Interest,”<sup>4</sup> now turns its attention to the United States in addressing the Symposium’s topic of “Redressing Legacies of Injustice from

Slavery, Empire, and Beyond: Reparations and Restorative Justice.”

In Section I, this Essay first examines how the transatlantic slave trade produced inter-generational harm for Black Americans, and discusses how these remnants of colonization continue to negatively impact Black Americans. Section II then surveys the emerging reparation and racial equity measures taken at the federal, state, and local levels of the United States to redress the continuing gross and systemic harms that resulted from such historic injustice.

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<sup>4</sup> “Forty acres and a mule” refers to the recompense ordered for thousands of formerly enslaved families by General William T. Sherman following his March to the Sea from Atlanta to Savannah in November/December 1864. *See, e.g.*, Special Field Orders No. 15. Thereafter President Abraham “Lincoln and Congress gave their approval, and soon 40,000 freedmen in the South had started to plant and build. Within months of Lincoln’s assassination, though, President Johnson rescinded the order and returned the land to its former owners. Congress made another attempt at compensation, but Johnson vetoed it.” Patricia Cohen, “*What Reparations for Slavery Might Look Like in 2019*,” N.Y. TIMES (May 23, 2019), <https://www.nytimes.com/2019/05/23/business/economy/reparations-slavery.html?action=click&module=RelatedCoverage&pctype=Article&region=Footer>.

The next Article in the Series, “40 Acres and a Mule, Plus Interest Part 2: A Critique and Study on Emerging Reparation and Racial Equity Measures” (forthcoming Fall 2022/Spring 2023), will explore slavery’s crippling legacy in greater detail, and then further discuss emerging measures at each governmental level and point out the shortfalls of the various approaches to redress historic injustice and offer suggestions on how such measures could effectuate the change necessary for a just and equitable society. Specifically, the Article will emphasize the overwhelming need for racial equity measures at the state and local levels, especially in lieu of the lack of progress towards actualizing broader, more comprehensive reparations measures at the federal level. The Article will also show how holistic advocacy, even at the local level alone, could lead to broad, systemic reform throughout the United States of America.<sup>5</sup>

## I. SLAVERY’S CRIPPLING LEGACY

[This is] a country whose existence was predicated on the torture of black fathers, on the rape of black mothers, on the sale of black children . . . . Having been enslaved for 250 years, black people were not left to their own devices [after slavery ended]. They were terrorized. In the Deep South, a second slavery ruled. In the North, legislatures, mayors, civic associations, banks, and citizens all colluded to pin black people into ghettos, where they were overcrowded, overcharged, and undereducated. Businesses discriminated against them, awarding them the worst jobs and the worst wages. Police brutalized them in the streets. And the notion that black lives, black bodies, and black wealth were rightful targets remained deeply rooted in the broader society.

- *Ta-Nehisi Coates, 2014*<sup>6</sup>

The transatlantic slave trade yielded tremendous economic benefits to its perpetrators and participants (including the one-fourth of all white Southerners who owned slaves during the antebellum era). Indeed, it is accurate to say that “the economic basis of America — and much of the Atlantic world — was erected” upon the backs of slaves. “In the seven cotton states, one-third of all white income was

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<sup>5</sup> Danielle D. Rogers, *40 Acres and a Mule, Plus Interest Part 2: A Critique and Study on Emerging Reparation and Racial Equity Measures* (forthcoming Fall 2022/Spring 2023).

<sup>6</sup> Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC MONTHLY (June 2014) <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>.

derived from slavery. By 1840, cotton produced by slave labor constituted 59 percent of the country's exports, and in 1860 there were more millionaires per capita in the Mississippi Valley than anywhere else in the country." Moreover, the slave economy "extended north to the looms of New England, and across the Atlantic to Great Britain, where it powered a great economic transformation [altering] the trajectory of world history." As historian Eric J. Hobsbawm has written, "Whoever says Industrial Revolution . . . says cotton."<sup>7</sup>

The sorts of race-based economic and other injustices that existed in North America during 250 years of slavery did not end with slavery's official abolition in 1865; rather, the discrimination just took on different, progressively more subtle forms. Starting with the Black Codes immediately after the Civil War; moving into a century of formal practices such as Jim Crow apartheid, widespread vote suppression, the federal government's racially-discriminatory housing loan programs and other practices; and continuing to today's stark racial disparities in matters of criminal justice/policing, wealth accumulation, educational opportunity and more, one can draw a direct line from the economic and human horrors of the transatlantic slave trade straight to the present day.<sup>8</sup>

The numbers speak for themselves:<sup>9</sup>

*Wealth.* Whites constitute 77% of overall population and hold 90% of the national wealth; Blacks constitute 13% of population and hold 2.6% of the national wealth.<sup>10</sup> Another measure of "[e]conomic

<sup>7</sup> *Id.*

The wealth accorded America by slavery was not just in what the slaves pulled from the land but in the slaves themselves. 'In 1860, slaves as an asset were worth more than all of America's manufacturing, all of the railroads, all of the productive capacity of the United States put together,' the Yale historian David W. Blight has noted. 'Slaves were the single largest, by far, financial asset of property in the entire American economy.'

*Id.*

<sup>8</sup> See, e.g., Michael Lawrence, *The Thirteenth Amendment as Basis for Racial Truth & Reconciliation*, 62 ARIZ. L. REV. 637, 669 (2020).

<sup>9</sup> See generally *7 Ways We Know Systemic Racism Is Real*, BEN & JERRY'S [hereinafter *7 Ways*], <https://www.benjerry.com/whats-new/2016/systemic-racism-is-real> (last visited Mar. 2, 2022) (providing organizational summary of these factors and data). Material in this section includes excerpts from prior works originally published as Michael A. Lawrence, *Racial Justice Demands Truth & Reconciliation*, 80 U. PITT. L. REV. 69, 99-104, 112-13 (2018); Lawrence, *The Thirteenth Amendment*, *supra* note 8 at 675-77.

<sup>10</sup> According to one study, white families hold 90% of the national wealth, Latino families hold 2.3%, and black families hold 2.6%. Not only that, but the Great Recession

data indicates that for every dollar the average white household holds in wealth the average black household possesses a mere ten cents.”<sup>11</sup>

*Employment.* Blacks are *two times* as likely to be unemployed as whites.<sup>12</sup>

*Education.* Black students are *three times* more likely than white students to be suspended for the same infractions.<sup>13</sup>

*Criminal Justice.* Blacks make up *40%* of the prison population (they make up *13%* of the overall population).<sup>14</sup>

*Housing.* Blacks are shown *18%* fewer homes and *4%* fewer rental units than whites.<sup>15</sup>

also hit minority families particularly hard, and the wealth gap has increased. Think about this: for every \$100 white families earn in income, black families earn just \$57.30.

*Id.*; see also Emily Badger, *Whites Have Huge Wealth Edge Over Blacks (But Don't Know It)*, N.Y. TIMES (Sept. 18, 2017), <https://www.nytimes.com/interactive/2017/09/18/upshot/black-white-wealth-gap-perceptions.html>.

<sup>11</sup> *7 Ways*, *supra* note 9. See also Cohen, *supra* note 4 (“According to the Federal Reserve’s Survey of Consumer Finances, the median wealth of black households is \$16,000, compared with \$163,000 for whites.”).

<sup>12</sup> Drew Desilver, *Black Unemployment Rate Is Consistently Twice that of Whites*, PEW RES. CTR. (Aug. 21, 2013), <https://www.pewresearch.org/fact-tank/2013/08/21/through-good-times-and-bad-black-unemployment-is-consistently-double-that-of-whites/>. “[O]ver the past 60 years, no matter what has been going on with the economy (whether it’s been up or down). . . . [B]lacks with college degrees are twice as likely to be unemployed as all other graduates.” *7 Ways*, *supra* note 9.

<sup>13</sup> See U.S. Dep’t of Educ. Office for Civil Rights, *Civil Rights Data Collection: Data Snapshot (School Discipline)* (Mar. 21, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>. “Overall, black students represent 16% of student enrollment and 27% of students referred to law enforcement. And once black children are in the criminal justice system, they are 18 times more likely than white children to be sentenced as adults.” *7 Ways*, *supra* note 9.

<sup>14</sup> Kim Farbota, *Black Crime Rates: What Happens When Numbers Aren't Neutral*, HUFFINGTON POST (Sept. 2, 2016), [https://www.huffpost.com/entry/black-crime-rates-your-st\\_b\\_8078586](https://www.huffpost.com/entry/black-crime-rates-your-st_b_8078586). When black people are convicted, they are about 20% more likely to be sentenced to jail time, and typically see sentences 20% longer than those for whites who were convicted of similar crimes. See Christopher Ingraham, *Black Men Sentenced to More Time for Committing the Exact Same Crime as a White Person, Study Finds*, WASH. POST (Nov. 16, 2017), <https://www.washingtonpost.com/news/wonk/wp/2017/11/16/black-men-sentenced-to-more-time-for-committing-the-exact-same-crime-as-a-white-person-study-finds/>. A felony conviction means, in many states, that you lose your right to vote, and more than 5.3% of the adult African American population is disenfranchised (compared to 1.5% of the non-African American population). Christopher Uggen, et al., *Locked Out 2022: Estimates of People Denied Voting Rights*, THE SENTENCING PROJECT (Oct. 25, 2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.

*7 Ways*, *supra* note 9.

<sup>15</sup> “A recent study demonstrated that people of color are told about and shown fewer homes and apartments than whites. Black ownership is now at an all-time low (42%, compared to 72% for whites).” *7 Ways*, *supra* note 9. See generally Emily Badger,

*Surveillance.* Blacks are 31% more likely to be pulled over than whites.<sup>16</sup>

*Healthcare.* According to one study, 67% of doctors have a bias against Black patients.<sup>17</sup>

These economic inequalities exist throughout the nation, regardless of geography. From around 1916–1970, huge numbers (more than six million) of Black Americans moved in the “Great Migration” from the South to the North, Midwest, and West for jobs in factories and relief from the indignities of Southern racism.<sup>18</sup> While migrants were able to escape the overt discrimination of the South, they encountered more subtle, but no less damaging, discriminatory practices in the North.<sup>19</sup>

One practice that has greatly hindered generations of Black Americans’ financial well-being is the so-called redlining of neighborhoods, where the federal Home Owners Loan Corporation long required that any property it insured be covered by a restrictive covenant; and real estate agents—even long after the practice was banned in 1968—guided prospective buyers, based on their race, only to certain neighborhoods.<sup>20</sup> This process triggered a self-fulfilling prophecy of lessened economic prospects for Black people. They are

*Redlining: Still a Thing*, WASH. POST (May 28, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/05/28/evidence-that-banks-still-deny-black-borrowers-just-as-they-did-50-years-ago/>.

<sup>16</sup> Christopher Ingraham, *You Really Can Get Pulled Over for Driving While Black*, *Federal Statistics Show*, WASH. POST (Sept. 9, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/09/09/you-really-can-get-pulled-over-for-driving-while-black-federal-statistics-show/>. “If you’re white, you don’t usually need to worry about being monitored by the police. But the day-to-day reality for African Americans is quite different. More than half of all young black Americans know someone, including themselves, who has been harassed by the police.” *7 Ways*, *supra* note 9.

<sup>17</sup> Tara Culp-Ressler, *Why Racism Is a Public Health Issue*, THINKPROGRESS (Feb. 3, 2014), <https://thinkprogress.org/why-racism-is-a-public-health-issue-b01056c63e44/>. African Americans in particular face discrimination in the world of healthcare too. A 2012 study found that a majority of doctors have “unconscious racial biases” when it comes to their black patients. Black Americans are far more likely than whites to lack access to emergency medical care. The hospitals they go to tend to be less well funded, and staffed by practitioners with less experience. But even black doctors face discrimination: they are less likely than their similarly credentialed white peers to receive government grants for research projects. And it seems that facing a lifetime of racism leaves African Americans vulnerable to developing stress-related health issues that can lead to chronic issues later in life. *7 Ways*, *supra* note 9.

<sup>18</sup> *Great Migration*, HISTORY.COM, <http://www.history.com/topics/black-history/great-migration> (last updated June 28, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> Coates, *supra* note 6 at 36, 37.

guided to less affluent, more economically depressed areas, which then forces them to resort to more risky loans provided by lenders engaging in an array of predatory lending practices.<sup>21</sup>

## II. EMERGING REPARATIONS AND RACIAL EQUITY MEASURES

Notions of moral imperative and fundamental fairness — equity — require some sort of meaningful response to such racial injustices. “If black lives are to truly matter in America, this nation must move beyond slogans and symbolism. Citizens don’t inherit just the glory of their nation, but its wrongs too,” writes Nikole Hannah-Jones.<sup>22</sup> “A truly great country does not ignore or excuse its sins. It confronts them and then works to make them right. If we are to be redeemed, if we are to live up to the magnificent ideals upon which we were founded, we must do what is just.”<sup>23</sup>

Responses should include moves toward governmental reparations at the federal and state level and racial equity measures at the local and state level, topics that have been receiving increased attention in recent years.<sup>24</sup>

**What is owed?** A 2020 Brookings Institution Policy Paper<sup>25</sup> outlines a number of possibilities and priorities for what is owed:

Individual payments for descendants of enslaved Black Americans;<sup>26</sup>

College tuition to 4-year or 2-year colleges and universities for descendants of enslaved Black Americans;<sup>27</sup>

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<sup>21</sup> *Id.* at 62, 63.

<sup>22</sup> Nikole Hannah-Jones, *What is Owed?*, N.Y. TIMES MAGAZINE (June 30, 2020), <https://www.nytimes.com/interactive/2020/06/24/magazine/reparations-slavery.html>.

<sup>23</sup> *Id.*

<sup>24</sup> *See, e.g.*, Jorge G. Castañeda, *Reparations: A Conversation Worth Having*, N.Y. TIMES (Apr. 12, 2019), <https://www.nytimes.com/2019/04/12/opinion/international-world/reparations-a-conversation-worth-having.html>.

<sup>25</sup> Rayshawn Ray & Andre Perry, *Why We Need Reparations for Black Americans*, BROOKINGS POL’Y 2020 (Apr. 2020), [https://www.brookings.edu/wp-content/uploads/2020/04/BigIdeas\\_Ray\\_Perry\\_Reparations-1.pdf](https://www.brookings.edu/wp-content/uploads/2020/04/BigIdeas_Ray_Perry_Reparations-1.pdf).

<sup>26</sup> *Id.* “The U.S. government owes lost wages as well as damages to the people it helped enslave. In addition to the lost wages, the accumulative amount of restitution for individuals should eliminate the racial wealth gap that currently exists.”

<sup>27</sup> *Id.*

People should be able to use the tuition remission to obtain a bachelor’s degree or an associate’s/vocational or technical degree. Tuition should be available for public or private universities. Considering the racial gap

Student loan forgiveness for descendants of enslaved Black Americans;<sup>28</sup>

Down payment grants and housing revitalization grants for descendants of enslaved Black Americans;<sup>29</sup>

Business grants for business starting up, business expansion to hire more employees, or purchasing property for descendants of enslaved Black Americans.<sup>30</sup>

The Report concludes:

Given the lingering legacy of slavery on the racial wealth gap, the monetary value we know that was placed on enslaved Blacks, the fact that other groups have received reparations, and the fact that Blacks were originally awarded reparations only to have them rescinded provide overwhelming evidence that it is time to pay reparations to the descendants of enslaved Blacks.<sup>31</sup>

Professor Roy L. Brooks, for his part, advances an approach “for repairing the damaged relationship between the federal government and black Americans in the aftermath of 240 years of slavery and another 100 years of government-sanctioned racial segregation”<sup>32</sup> in his 2019 book, *Atonement and Forgiveness: A New Model for Black Reparations*.<sup>33</sup>

“Key to Brooks’ vision is the government’s clear signal that it understands the magnitude of the atrocity it committed against an innocent people, that it takes full responsibility, and that it publicly requests forgiveness—in other words, that it apologizes. The

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in the ability to obtain degrees at private schools, this part of the package will further help to reduce racial disparities by affording more social network access and opportunity structures.

*Id.*

<sup>28</sup> *Id.* “Student loan debt continues to be a significant barrier to wealth creation for Black college graduates. Among 25–55-year-olds, about 40 percent of Blacks compared to 30 percent of whites have student loan debt.”

<sup>29</sup> *Id.* “Down payment grants will provide Black Americans with some initial equity in their homes relative to mortgage insurance loans. Housing revitalization grants will help Black Americans to refurbish existing homes in neighborhoods that have been neglected due to a lack of government and corporate investments in predominately Black communities.”

<sup>30</sup> *Id.* “Black business owners are still less likely to obtain capital from banks to make their businesses successful.”

<sup>31</sup> *Id.* See also, Emma Goldberg, *How Reparations for Slavery Became a 2020 Campaign Issue*, N.Y. TIMES (June 18, 2020, updated May 31, 2021), <https://www.nytimes.com/2020/06/18/us/politics/reparations-slavery.html>.

<sup>32</sup> Univ. of Calif. Press Blog, <https://www.ucpress.edu/book/9780520343405/atonement-and-forgiveness>.

<sup>33</sup> ROY L. BROOKS, *ATONEMENT AND FORGIVENESS: A NEW MODEL FOR BLACK REPARATIONS* (Univ. of Calif. Press 2019).

government must make that apology believable,” in Brooks’ view, “by a tangible act that turns the rhetoric of apology into a meaningful, material reality, that is, by reparation. Apology and reparation together constitute atonement. Atonement, in turn, imposes a reciprocal civic obligation on black Americans to forgive.” This, in turn, would “allow [] black Americans to start relinquishing racial resentment and to begin trusting the government’s commitment to racial equality.”<sup>34</sup>

### A. Federal Measures

The primary responsibility for redressing the devastating harms caused by the transatlantic slave trade and its Jim-Crow and modern-day discriminatory after-effects rests with the federal government. As Duke University Professor William A. Darity Jr. and folklorist A. Kirsten Mullen explain in their multiple-award winning 2020 book, *From Here to Equality: Reparations for Black Americans in the Twenty-First Century*,<sup>35</sup> only the federal government, with its comprehensive powers, can scale-up to manage the scope of the immense task at hand.

As Ms. Mullen explained in a recent interview on the Diane Rehm Show: “There certainly is a role local government can play, and that would be in the sphere of racial equity initiatives. . . . [W]e’re just saying, let’s call them what they are,” she adds. “We feel somewhat proprietary about the term reparations and want that to be reserved for programs that are designed to erase this racial wealth gap, \$11 trillion on the low end.”<sup>36</sup>

In their book, Professor Darity and Ms. Mullen outline three broad eras of racial injustice — slavery, Jim Crow, and modern-day discrimination, any one of which make a strong case for reparations; but when “taken collectively, . . . are impossible to ignore.”<sup>37</sup> They “offer a detailed roadmap for an effective [federal] reparations

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<sup>34</sup> Univ. of Calif. Press Blog, *supra* note 32.

<sup>35</sup> WILLIAM A. DARITY JR. A. KIRSTEN MULLEN, *FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY* (UNC Press 2020).

<sup>36</sup> A. Kirsten Mullen, interview on Diane Rehm show (~40:00 min mark) (Oct. 1 2021), <https://wamu.org/story/21/10/01/tracking-local-reparations-efforts-in-the-u-s/> (adding, “we would absolutely be pleased to see the local governments saying this is what we’re doing in our town or our state; and we also affirm the need for a national program of reparations for Black Americans for the sins of slavery.”).

<sup>37</sup> Univ. of North Carolina Press Blog, <https://uncpress.org/book/9781469654973/from-here-to-equality/>.



program, including a substantial payment to each documented U.S. black descendant of slavery” based on a measurement of the “inequalities borne of slavery, link[ing] monetary values to historical wrongs, [and] assess[ing] the literal and figurative costs of justice denied in the 155 years since the end of the Civil War.”<sup>38</sup>

As for dollar amounts, “a recurring theme has been to return to that first official action promising 40 acres and a mule . . . . What would Sherman’s promise be worth today?”<sup>39</sup>

Whatever the amount, reparations recipients in the United States “could get a one-time check, receive vouchers for medical insurance or college, or have access to a trust fund to finance a business or a home. [Professor] Darity argues that ‘for both substantive and symbolic reasons, some important component must be direct payment to eligible recipients.’”<sup>40</sup>

### i. H.R.40; S.40

The issue of racial reparations has been before Congress since 1989, when Rep. John Conyers first introduced H.R. 40 (“Commission to Study and Develop Reparation Proposals for African-Americans Act”); and which has been reintroduced in every subsequent Congress.<sup>41</sup> The bill has gone from having only two co-sponsors as recently as 2015, to 35 in 2017, to 173 in 2019, to 196 in 2021.<sup>42</sup> Also, in the last two Congresses, Sen. Cory Booker introduced companion legislation (now S.40) in the U.S. Senate, with 20 co-sponsors in 2019 and 22 co-sponsors in 2021.<sup>43</sup>

<sup>38</sup> *Id.*

<sup>39</sup> Cohen, *supra* note 4. This question will be addressed in the forthcoming Article. See *supra* note 5 and accompanying text.

<sup>40</sup> Cohen, *supra* note 4. See also Brooks, *supra* note 33 (advocating the “atonement model,” emphasizing longer-term investments in education, housing and businesses that build up wealth)

<sup>41</sup> See generally, e.g., Sheila Jackson Lee, *H.R. 40 Is Not a Symbolic Act. It’s a Path to Restorative Justice*, ACLU (May 22, 2020), <https://www.aclu.org/news/racial-justice/h-r-40-is-not-a-symbolic-act-its-a-path-to-restorative-justice/>. Rep. Conyers died in 2019; Rep. Sheila Jackson Lee reintroduced H.R. 40 in 2019 and 2021. See <https://www.congress.gov/bill/115th-congress/house-bill/40/text>.

<sup>42</sup> See <https://www.congress.gov/bill/117th-congress/house-bill/40/cosponsors>; <https://www.congress.gov/bill/116th-congress/house-bill/40/cosponsors>; <https://www.congress.gov/bill/115th-congress/house-bill/40/cosponsors>; <https://www.congress.gov/bill/114th-congress/house-bill/40/cosponsors>.

<sup>43</sup> <https://www.congress.gov/bill/117th-congress/senate-bill/40>; <https://www.congress.gov/bill/116th-congress/senate-bill/1083>;

Rep. Conyers explains: “I chose the number of the bill, 40, as a symbol of the forty acres and a mule that the United States initially promised freed slaves. This unfulfilled promise and the serious devastation that slavery had on African American lives has never been officially recognized by the United States Government.”<sup>44</sup>

For the first time ever, Congress held hearings on H.R. 40 in June, 2019.<sup>45</sup> More recently, in a major milestone within the past year, the House Judiciary Committee voted 25-17 in April 2021 to advance H.R. 40 for the first time to the full House.<sup>46</sup> No doubt, however, the bill still faces long odds of becoming law, with opposition from all

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<https://www.booker.senate.gov/news/press/booker-reparations-bill-reaches-12-senate-cosponsors>.

<sup>44</sup> *Id.* In the words of Rep. Conyers, the bill does four things:

It acknowledges the fundamental injustice and inhumanity of slavery; It establishes a commission to study slavery, its subsequent racial and economic discrimination against freed slaves; It studies the impact of those forces on today’s living African Americans; and The commission would then make recommendations to Congress on appropriate remedies to redress the harm inflicted on living African Americans.

*Id.*

John Conyers, *My Reparations Bill - H.R. 40*, IBW21.ORG (Oct. 3 2013), <https://ibw21.org/commentary/my-reparations-bill-hr-40/>. In 2008, the U.S. House of Representatives did issue a formal apology in the form of H.R. Res. 194; and in 2009, the U.S. Senate unanimously passed Concurrent Resolution 26. See Lawrence, *supra* note 9 at 111–12.

<sup>45</sup> Sheryl Gay Stolberg, *At Historic Hearing, House Panel Explores Reparations*, N.Y. TIMES (June 19, 2019), <https://www.nytimes.com/2019/06/19/us/politics/slavery-reparations-hearing.html>. The hearings drew large crowds and included testimony from Ta-Nehisi Coates, who addressed head-on the sorts of objections raised by Senate Republican leader Mitch McConnell, who told reporters he does not support government measures for “something that happened 150 years ago, for whom none of us currently living are responsible.”

[Sen. McConnell] was alive for the redlining of Chicago and the looting of black homeowners of some \$4 billion.... Victims of their plunder are very much alive today. I am sure they would love a word with the [then] majority leader.... While emancipation dead-bolted the door against the bandits of America, Jim Crow wedged the windows wide open. That’s the thing about Senator McConnell’s ‘something.’ It was 150 years ago, and it was right now.

*Id.*

See also *Here’s What Ta-Nehisi Coates Told Congress About Reparations*, THE N.Y. TIMES (June 19, 2019) <https://www.nytimes.com/2019/06/19/us/ta-nehisi-coates-reparations.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer>.

<sup>46</sup> Savannah Behrmann, *House Committee Approves Bill to Study Slavery Reparations For First Time*, U.S.A. TODAY (Apr. 14, 2021), <https://www.usatoday.com/story/news/politics/2021/04/14/house-committee-hold-historic-vote-study-slave-reparations/7210967002/>.

Republicans (and some Democrats), who share Sen. McConnell’s view that reparations are not necessary for “long-ago crimes.”<sup>47</sup> To date, “neither chamber of Congress has committed to a floor vote.”<sup>48</sup>

## B. State Measures

The discussion of reparations at the state level seemingly gained traction during the outcries for racial reckoning in the summer of 2020 to demand racial equity and criminal justice reform. Lawmakers in California, Maryland, New Jersey, and Oregon introduced proposals or attempted to renew proposals to study the possibility of reparations.<sup>49</sup> However, like reparations at the federal level, state efforts remain somewhat elusive. The bills that lawmakers introduced to study the possibility of reparations in New Jersey, New York, and Oregon have remained in the legislative committees.<sup>50</sup> Maryland State Delegate Wanika B. Fisher introduced legislation to create a reparations task force.<sup>51</sup> Despite receiving a committee hearing on the legislation, the House of Delegates did not take further action.<sup>52</sup> Currently, California is the only state that approved a commission to study reparations and determine how reparations will occur.<sup>53</sup>

### i. California

On September 30, 2020, California became the first state to mandate the study of reparations when Governor Newsom signed Assembly Bill 3121 (“AB 3121”).<sup>54</sup> AB 3121 established the Task

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<sup>47</sup> David A. Love, *Mitch McConnell’s Reparations Comments Belittle the Issue*, CNN.COM (June 19, 2019), <https://www.cnn.com/2019/06/19/opinions/slavery-reparations-hr40-mitch-mcconnell-love/index.html>.

<sup>48</sup> Nicholas Fandos, *House Advances Bill to Study Reparations in Historic Vote*, THE N.Y. TIMES (April 14, 2021), <https://www.nytimes.com/2021/04/14/us/politics/reparations-slavery-house.html>.

<sup>49</sup> The Associated Press, *Push for Reparations Stalls in Oregon and Other Statehouses Despite Racial Reckoning*, OREGON LIVE (Apr. 25, 2021), <https://www.oregonlive.com/nation/2021/04/push-for-reparations-stalls-in-oregon-and-other-statehouses-despite-racial-reckoning.html>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *AB 3121: Task Force to Study and Develop Reparation Proposals for African Americans*, <https://oag.ca.gov/ab3121>; Adam Beam, *California to study reparations for*

Force to Study and Develop Reparation Proposals for African Americans.<sup>55</sup> The law created a nine-member task force (“Reparations Task Force”) to inform individuals about slavery and develop proposals to address how California will provide reparations to Black Americans.<sup>56</sup> California State Senator Steven Bradford attributed the success of California’s efforts to Secretary of the State Shirley Weber, who authored the bill, the Legislative Black Caucus, and Governor Newsom.<sup>57</sup>

AB 3121 builds upon the existing law that required various entities and individuals to study and analyze the institution of chattel slavery and its impact to establish an evidentiary basis for the bill.<sup>58</sup> In example, Senate Bill No. 1737 (SB 1737) required the Regents of the University of California to “gather a colloquium of scholars to draft a research proposal to analyze the economic benefits of slavery that accrued to owners and the businesses, including insurance companies and their subsidiaries, that received those benefits, and to make recommendations to the Legislature regarding those findings.”<sup>59</sup> Additionally, the California Legislature required the State Library’s participation in the efforts required under SB 1737 to “examine the economic legacy of slavery in California, including forced slavery, chattel slavery, and indentured servitude.”<sup>60</sup> Further, Senate Bill No. 2199 (“SB-2199”) tasked the Insurance Commissioner with obtaining any records of slaveholder insurance policies issued during the slavery era by any antecedent corporation from insurers licensed and doing business in California.<sup>61</sup> SB-2199 also requires insurers by law to research and report to the Insurance Commissioner any insurance

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*Black Americans*, AP NEWS (Sept. 30, 2020), <https://apnews.com/article/legislature-slavery-california-gavin-newsom-state-legislature-85b905e79384e5945ccab4e2930116d9>.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*; *Governor Newsom Announces Appointments to First-in-the-Nation Task Force to Study Reparations for African Americans*, OFFICE OF THE GOVERNOR GAVIN NEWSOM (May 7, 2021), <https://www.gov.ca.gov/2021/05/07/governor-newsom-announces-appointments-to-first-in-the-nation-task-force-to-study-reparations-for-african-americans/>.

<sup>57</sup> The Associated Press, *supra* note 49.

<sup>58</sup> Legislative Counsel’s Digest,

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB312](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB312).

<sup>59</sup> *Id.*

<sup>60</sup> CAL. EDUC. CODE § 92615 (West 2022); Section 1, Article 2.7 (b), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=199920000SB1737](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=199920000SB1737).

<sup>61</sup> SB-2199,

[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=199920000SB2199&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=199920000SB2199&showamends=false).

policy that “provided coverage for the injury to, or death of, enslaved people.”<sup>62</sup>

Based on the information gathered from the aforementioned existing law, the California Legislature made factual findings and declarations within AB 3121 and formed the task force’s purpose.<sup>63</sup> The purpose of the task force is to recommend ways to educate the California public of its findings, recommend appropriate remedies based on the task force’s findings, and to submit a report to the California Legislature with any recommendations.<sup>64</sup> Within the recommendations, the task force must address other issues such as how the recommendations comport with international standards for restitution, the method of California’s formal apology, offer guidance on California laws and policy that disproportionately impact the Black community, address the form of reparations and the instrumentalities, determine who should be eligible for reparations, and study other forms of restitution.<sup>65</sup> The resolution expressly states that any state level reparation actions taken are not a replacement for any federal level reparations measures.<sup>66</sup>

AB 3121 requires nine members to serve on the task force, and the Governor must appoint five members.<sup>67</sup> Within the five appointees, the Governor must select one appointee with an expertise in civil rights from the field of academia and two appointees from “major civil society and reparations organizations that have historically championed the cause of reparatory justice.”<sup>68</sup> The President pro Tempore of the Senate and the Speaker of the Assembly each must select two appointees. No more than four Members of the California Legislature can serve on the task force. Other factors considered for the task force committee candidates included a “background in economics and community development, health and psychology, law and criminal justice, faith-based and community activism, and an expertise in the historic achievement of reparatory justice.”<sup>69</sup> As of May 7, 2021, after several months of interviews, the

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Governor Newsom, *supra* note 56.

Governor appointed nine task force members.<sup>70</sup> The members of the task force must issue a report to the California Legislature by June 1, 2022.<sup>71</sup> After several weeks of debate, the task force voted to only offer reparations to descendants of enslaved people.<sup>72</sup>

## ii. Local Measures

Despite the challenges and potential pitfalls in actualizing local reparations, local governments and officials are increasingly developing and implementing reparations programs across the United States of America. As of June 19, 2021, several United States mayors, organized as the Mayors Organized for Reparations and Equity (“MORE”), have pledged to pay Black residents in their respective cities reparations for slavery to catalyze national action.<sup>73</sup> The coalition believes that cities should act as “laboratories for bold ideas that can be transformative for racial and economic justice on a larger scale, and demonstrate for the country how to pursue and improve initiatives that take a reparatory approach to confronting and dismantling structural and institutional racism.”<sup>74</sup> To achieve this goal, the mayors’ plan to partner with local commissions in each city consisting of Black-led organizations to serve in an advisory capacity to implement reparations programs.<sup>75</sup> The mayors of MORE did not have details on the cost of reparations programs, funding sources, or the criteria for selection; and, as Los Angeles Mayor Eric Garcetti pointed out, a potential pitfall to local initiatives is that that “cities will never have the funds to pay for reparations on [their] own.”<sup>76</sup> However, the coalition stated that the local commissions would help develop the details of the reparations programs.<sup>77</sup>

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<sup>70</sup> *Id.*

<sup>71</sup> AB 3121: Task Force to Study and Develop Reparation Proposals for African Americans, <https://oag.ca.gov/ab3121>.

<sup>72</sup> Soumya Karlamangla, *California Task Force Votes to Offer Reparations Only to Descendants of Enslaved People*, THE N.Y. TIMES (Mar. 30, 2022), <https://www.nytimes.com/2022/03/30/us/california-reparations.html>.

<sup>73</sup> Adam Beam, *11 US Mayors Pledge to Pay Reparations For Slavery to Small Groups of Black Residents*, USA TODAY (Jun. 19, 2021), <https://www.usatoday.com/story/news/nation/2021/06/19/reparations-slavery-pledged-11-us-mayors-pilot-program/7753319002/>.

<sup>74</sup> Mission, More, <https://moremayors.org/mission>.

<sup>75</sup> Beam, *supra* note 54.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

### iii. San Francisco

San Francisco became the largest city yet to address slavery reparations when officials approved a task force to study and develop reparation measures for the descendants of Black enslaved people.<sup>78</sup> In January 2020, District 10 Supervisor Shamann Walton of the San Francisco Board of Supervisors introduced legislation that would create an advisory committee to develop a thorough reparations program to alleviate the remnants of United States chattel slavery that continues to impact the Black community in San Francisco negatively.<sup>79</sup> Supervisor Walton's legislation, Ordinance No. 259-20 of the San Francisco Administrative Code, was enacted on December 18, 2020.<sup>80</sup>

On May 4, 2021, the San Francisco Board of Supervisors voted to approve the African American Reparations Advisory Committee members.<sup>81</sup> The reparations advisory committee consists of 15 voting members, and each member seat contains specific criteria that an individual must meet for the respective seat.<sup>82</sup>

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<sup>78</sup> Olga R. Rodriguez, *San Francisco OKs Task Force to Study Black Reparations*, AP NEWS (May 4, 2021), <https://apnews.com/article/san-francisco-race-and-ethnicity-government-and-politics-162ed9de1b72bab0ed7e9c360392f59c>.

<sup>79</sup> Shwanika Narayan, *San Francisco Set to Approve Reparations Task Force*, SAN FRANCISCO CHRONICLE (May 3, 2021), <https://www.sfchronicle.com/news/article/San-Francisco-set-to-approve-reparations-task-16148395.php>; and Press Release [https://sfbos.org/sites/default/files/2020\\_01\\_17%20Press%20Release\\_%20Reparations%20Plan.pdf](https://sfbos.org/sites/default/files/2020_01_17%20Press%20Release_%20Reparations%20Plan.pdf).

<sup>80</sup> San Francisco, Cal., Admin. Code, Ordinance 259-20 (Dec. 18, 2020), <https://sfgov.legistar.com/LegislationDetail.aspx?ID=4675404&GUID=7A01BFE3-FBDE-4108-9523-895A05B5CE75>.

<sup>81</sup> Rodriguez, *supra* note 78; Narayan, *supra* note 79; Beam, *supra* note 54.

<sup>82</sup> *Id.* The requirements and composition of each respective seat, from seat 1 to seat 15, are as follows: (1) a storyteller of Black stories, historian of Black history, or a person works for an media outlet serving the Black community, (2) an individual displaced by gentrification from San Francisco, (3) an expert in the financial industry (e.g., private equity, venture capital, or fundraising), (4) an individual who is either 65 years of age or older who lived in a Black community, (5) an incarcerated individual, (6) an individual who experienced workplace discrimination, (7) an individual who experienced or is experiencing homelessness; (8) an individual privy to the impact of development activities on Black communities in the Filmore District and Western Addition, (9) a small business owner serving the Black community, (10) an employee or leader "in a charitable, social service, or religious organization" serving the Black community, (11) a person in the technology field with experience in technological equity, (12) an inclusive person between the ages of 14 and 24, who worked with community groups serving the Black community, (13) a person representing the sectors served by the Office of Economic and Workforce Development with

Within the next two years, the committee must submit a final draft of its proposal, which will likely determine the scope and eligibility criteria of the local reparations program and “make whole” those who suffer from the remnants of slavery.<sup>83</sup> The committee will gather input from the African American community on ways to improve in a plethora of areas such as workforce development, housing, education, and violence prevention.<sup>84</sup>

#### iv. Evanston, IL

In June of 2019, the City Council of Evanston, Illinois passed Resolution 58-R-19, recognizing that “the community and the government [of Evanston had] allowed and perpetuated racial disparities through the use of many regulatory and] policy-oriented tools,” including “zoning laws that supported neighborhood redlining, municipal disinvestment in the black community; and a history of bias in government services.”<sup>85</sup> “Such practices were often overt, but more often, covertly adopted or incorporated under the guise of what would appear to be legitimate policy.”<sup>86</sup> The City acknowledged: “These ordinances and other city-wide practices have contributed to the decimation of historically black neighborhoods, a lack of trust of government by some black residents, and the collapse of a once economically thriving black community.”<sup>87</sup>

Thereafter, in September of 2019, Evanston passed Resolution 126-R-19, “Establishing the City of Evanston Reparations Fund and

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experience working in Black communities, (14) an individual with experience as a parent or caregiver of children suffering from the barriers or disparate treatment in education, (15) an individual who lived or is living in public housing. All terms for the members on the reparations committee are indefinite. Ordinance No. 259-20, <https://sfbos.org/sites/default/files/o0259-20.pdf>.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Resolution 58-R-19, *Commitment to End Structural Racism and Achieve Racial Equity*, CITY OF EVANSTON (June 5, 2019),

<https://www.cityofevanston.org/home/showpublisheddocument/62674/63751153147797000>

0. Nearly 20 years earlier in 2002, Evanston adopted Resolution 43-R-02, *Slave Reparations*, and supported US House Resolution 40 (HR-40), calling for a Federal Commission to study slavery and its vestiges, and make recommendations for reparations, <https://www.cityofevanston.org/home/showpublisheddocument/66184/63767743901157000>

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<sup>86</sup> *Id.*

<sup>87</sup> *Id.*



the Reparations Subcommittee,”<sup>88</sup> committing the first ten million dollars (\$10,000,000.00) of the City’s Municipal Cannabis Retailers’ Occupation Tax (3% on gross sales of cannabis) to fund local reparations for housing and economic development programs for Black Evanston residents.”<sup>89</sup>

The resulting first program of the Evanston Local Reparations Fund is “The Restorative Housing Program,” which “acknowledges the harm caused to Black/African-American Evanston residents due to discriminatory housing policies and practices and inaction on the City’s part,” and is designed to:

Revitalize, preserve, and stabilize Black/African-American owner-occupied homes in Evanston;

Increase homeownership and build the wealth of Black/African-American residents;

Build intergenerational equity amongst Black/African-American residents; and

Improve the retention rate of Black/African-American homeowners in the City of Evanston.<sup>90</sup>

In numerous meetings with community members, the City determined that top priorities for reparations should include measures providing affordable housing and economic development.<sup>91</sup> “The strongest case for reparations by the City of Evanston is in the area of housing,” the City wrote, “where there is sufficient evidence showing the City’s part in housing discrimination as a result of early City zoning ordinances in place between 1919 and 1969, when the City banned housing discrimination.”<sup>92</sup>

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<sup>88</sup> *A Resolution*, CITY OF EVANSTON (Nov. 14, 2019), <https://www.cityofevanston.org/home/showpublisheddocument/62672/63751153012243000>.

<sup>89</sup> *Id.*

<sup>90</sup> *Local Reparations: Restorative Housing Program*, CITY OF EVANSTON (Mar. 22, 2021), <https://www.cityofevanston.org/home/showpublisheddocument/66184/63767743901157000>. See also Thai Jones, *Slavery Reparations Seem Impossible. In Many Places They’re Already Happening*, WASH. POST (Jan. 31, 2020), <https://www.washingtonpost.com/outlook/2020/01/31/slavery-reparations-seem-impossible-many-places-theyre-already-happening/>.

<sup>91</sup> Evanston Local Reparations, CITY OF EVANSTON <https://www.cityofevanston.org/government/city-council/reparations>.

<sup>92</sup> Rachel Treisman, *In Likely First, Chicago Suburb of Evanston Approves Reparations for Black Residents*, WAMU.ORG (Mar. 23, 2021), <https://wamu.org/story/21/03/23/in-likely-first-chicago-suburb-of-evanston-approves-reparations-for-black-residents/>.

Specifically, the Program grants qualifying households up to \$25,000 for down payments or home repairs.<sup>93</sup> Qualifying households include those who were residents of Evanston between 1919 and 1969 or are direct descendants of someone who lived there during that time.<sup>94</sup>

The Program has been subject to some pushback and criticism for, among other things, its limited scope,<sup>95</sup> to which one of its chief architects, former Evanston Alderman Robin Rue Simmons, responds, “Yes, that amount is inadequate in the context of the massive intergenerational economic devastation inflicted by slavery, but it is real money and should be considered a down payment on what is rightfully owed to millions of African Americans.”<sup>96</sup>

#### v. Providence, RI

In July 2020, Mayor Jorge Elorza of Providence, Rhode Island signed Executive Order 2020-13 to examine racial equity measures and help the city address its historical involvement in both the transatlantic slave trade and mistreatment of Native Americans.<sup>97</sup> The executive order commits the Providence “to a process of truth, reconciliation, and municipal reparations for Black, Indigenous (Indian) People, and People of Color in Providence.”<sup>98</sup>

Prior to signing the executive order, Mayor Elorza met with the African American Ambassador Group (“AAAG”) for several

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<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> See, e.g., Michela Moscufo, *The Nations First Municipal Reparations Program is Off to a Rocky Start*, NBC NEWS.COM (June 2, 2021), <https://www.nbcnews.com/news/nbcblk/country-s-first-municipal-reparations-program-rocky-start-n1269289>; Mohan Setty-Charity, *What Local Reparations Programs Must Consider*, THE DAILY PRINCETONIAN (May 6, 2021), <https://www.dailyprincetonian.com/article/2021/05/princeton-university-evanston-reparations>.

<sup>96</sup> Robin Rue Simmons, *Reparations Can't Wait for Congress*, WASH. POST (Aug. 10, 2021), <https://www.washingtonpost.com/opinions/2021/08/10/reparations-local-blueprint-evanston-illinois/>.

<sup>97</sup> Executive Order 2020-13, <https://www.providenceri.gov/wp-content/uploads/2020/07/Mayors-Executive-Order-2020-13-1.pdf>.

<sup>98</sup> *Id.* This section only focuses on the portion of Executive Order 2020-13 that addresses racial equity measures for African Americans to not go beyond the scope of this Essay. However, the authors acknowledge and affirm the importance of eradicating structural injustices for all Communities of Color.

months.<sup>99</sup> When asked about the ongoing racial equity measures in Providence, Mayor Elorza stated, “I know that at the municipal level, there is no way that we can make good on all of the injustices.”<sup>100</sup> This has to happen at every level: at the state, at the federal, and from private institutions. But there’s a lot of value to showing leadership at the local level to taking the initial steps.”<sup>101</sup>

The executive order consists of a three-phase process that encompasses the Truth, Reconciliation, and Reparations stages.<sup>102</sup> First, the Truth phase calls for the examination of the roles of Rhode Island and Providence in “supporting the institution of slavery, the genocide of Indigenous People, forced assimilation, and seizure of land, among other policies.”<sup>103</sup> The Truth process then seeks to highlight the contributions of Black people in forming “Providence’s economic, religious, and civic origins” and examine both the state and municipal laws that discriminated against Black people.<sup>104</sup> Next, the executive order discusses the racial wealth and health gaps that resulted from the badges and incidents of slavery.<sup>105</sup> In particular, this phase also examines the forms of discrimination used against Black people in public and private sectors “including but not limited to housing discrimination, educational discrepancies, health disparities, mass incarceration, disproportionate experiences of police violence, disproportionate punishment in school systems, and disproportionate lack of wealth.”<sup>106</sup> Lastly, the phase requires Providence to connect the historical injustices with structural inequalities and document the historical contributions of Black people.<sup>107</sup>

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<sup>99</sup> *Mayor Jorge Elorza Announces Truth-Telling, Reconciliation and Municipal Reparations Process*, <https://www.providenceri.gov/mayor-jorge-elorza-announces-truth-telling-reconciliation-municipal-reparations-process/>; *The Truth of the Matter, The Struggle for African Heritage & Indigenous People Equal Rights in Providence, Rhode Island (1620-2020)*, <https://aaagpvd.com/a-matter-of-truth-2/>.

<sup>100</sup> Deborah Becker, *Providence Mayor’s Executive Order Marks First Steps Toward Reparations In Rhode Island*, WBUR (July 16, 2020), <https://www.wbur.org/news/2020/07/16/providence-mayor-executive-order-reparations>.

<sup>101</sup> *Id.*

<sup>102</sup> Executive Order 2020-13, *supra* note 97.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

The Reconciliation phase of the resolution calls for the community to digest and reflect upon the experiences revealed during the Truth phase.<sup>108</sup> Additionally, the Reconciliation phase is designed to help facilitate healing, appreciation, and help the community to overcome deep racial divides.<sup>109</sup> Several community groups such as the Providence Cultural Equity Initiative, Roger Williams University, and Providence Public Library partnered with the City of Providence and the AAAG during the Truth process to establish a framework for reconciliation.<sup>110</sup> To facilitate this process, the collective performed community engagement and carried out discussions across Providence to reflect on the information addressed and researched during the Truth Process.<sup>111</sup> The Truth process resulted in a nearly 200-page report entitled “A Matter of Truth” and analyzes the history of racism in Providence, Rhode Island prior to 1600 up until the present.<sup>112</sup>

Through the last step of this process, Reparations, the City will take measures to reverse the injuries resulting from the Truth findings and advise what appropriate policies, programs, and projects may be executed based on recommendations that accomplish this mission.<sup>113</sup> These will also work to address local laws and policies that continue to negatively impact Black, Indigenous People, and People of Color in Providence.<sup>114</sup>

On February 28, 2022, Mayor Elorza signed Executive Order 2022-4 to establish the Providence Municipal Reparations Commission to address the racial injustices detailed in the Truth Telling and Reconciliation phases.<sup>115</sup> The Commission will have a 13-member composition. Mayor Elorza will appoint seven members and

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<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*; *Elorza Signs Executive Order Establishing Providence Municipal Reparations Commission*, <https://www.golocalprov.com/news/elorza-signs-executive-order-establishing-providence-municipal-reparations>; *Mayor Elorza Joins African American Ambassador Group, Historians to Unveil Truth-Telling Report*, <https://www.providenceri.gov/mayor-elorza-joins-african-american-ambassador-group-historians-unveil-truth-telling-report/>.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* To help further advance the Reconciliation phase, the City of Providence also launched Requests for Proposals after it received a grant of \$100,000 from the Nellie Mae Education Foundation. *Id.*

<sup>113</sup> Executive Order 2020-13, *supra* note 97.

<sup>114</sup> *Id.*

<sup>115</sup> Executive Order 2022-4, [https://www.providenceri.gov/wp-content/uploads/2022/02/Elorza-EO\\_\\_2022-4.pdf](https://www.providenceri.gov/wp-content/uploads/2022/02/Elorza-EO__2022-4.pdf).

the Providence City Council will appoint six members.<sup>116</sup> The Commission must produce a report for the City of Providence and City Council which “shall include, but is not limited to: recommendations on reparations, community engagement strategies throughout the process; and the reparations work being done in other cities.”<sup>117</sup> When formed, the commission must meet no less than twice per month and produce a report within 90 days.<sup>118</sup>

Mayor Elorza proposed that Providence should use \$15 million from its American Rescue Plan Act funding to create racial equity measures.<sup>119</sup> Within the funding, “\$500,000 is being proposed for direct relief to Providence residents, \$4.5 million is being proposed for infrastructure, and the remaining \$10 million for a yet-to-be-defined pandemic inequities program.”<sup>120</sup> The commissions must also make recommendations on funding.<sup>121</sup>

#### vi. **St. Paul, MN**

The City Council of Saint Paul passed Resolution 21-77 on January 13, 2021.<sup>122</sup> In Resolution 21-77, the City Council apologized on behalf of Saint Paul for the City’s role in both the institutional and structural racism experienced by Black residents.<sup>123</sup> Additionally, the resolution discussed the historical injustices that Black people experienced throughout the United States and mentioned the resulting vestiges of slavery that caused “black-white” disparities in “every area of endeavor, from housing to education and employment, business investment, economic prosperity, health, and wellness, including life

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<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Amy Russo, *Elorza forms commission to plan for reparations, possibly direct payments*, PROVIDENCE JOURNAL (Feb. 28, 2022), <https://www.providencejournal.com/story/news/local/2022/02/28/providence-reparations-mayor-elorza-forms-planning-board/6975832001/>.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Reparations Legislative Advisory Committee*, SAINT PAUL MINNESOTA, <https://www.stpaul.gov/department/city-council/reparations-legislative-advisory-committee#:~:text=On%20Jan%2013%2C%202021%2C%20City,racism%20experienced%20by%20its%20residents.>

<sup>123</sup> *Id.*

expectancy and infant mortality.”<sup>124</sup> In addition to state and local governments, the resolution further calls for all organizations and institutions that have benefitted from racial equity to join Saint Paul in apologies and address racism within each entity’s respective systems and programs.<sup>125</sup> The City of Council of Saint Paul also requests that the State of Minnesota and its federal delegation “initiate policymaking and provide funding for reparations at the state and national level.”<sup>126</sup>

The resolution also calls for the establishment of a temporary Legislative Advisory Committee to create a structure in Saint Paul’s Code for the Saint Paul Recovery Act Community Reparations Commission.<sup>127</sup> The committee will be responsible for creating the roles and responsibilities of the new city commission.<sup>128</sup> The City Council expects a report from the commission that “will focus on but not be limited to strategies to grow equity and generational wealth, closing the gaps in homeownership, health care, education, employment and pay, and fairness within criminal justice among the American descendants of chattel slavery.”<sup>129</sup> The commission will be responsible for helping Saint Paul make significant progress to repair the damage that both private and public systemic racism caused in Saint Paul towards its Black citizens.<sup>130</sup>

On June 16, 2021, City Council passed Resolution 21-886 which established the Saint Paul City Council Legislative Advisory Committee and appointed several members.<sup>131</sup> Resolution 21-886 briefly summarizes Resolution 21-77 and then lays the foundation for the purpose and duties of the Committee. Resolution 21-886 appointed both conveners and members of the Reparations Legislative advisory committee.<sup>132</sup> Additionally, the City Council provided a nominal stipend to the appointees which consists of a \$50 stipend per meeting and provides both professional and clerical staff to aid the work of the

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<sup>124</sup> Resolution 21-77, <https://www.stpaul.gov/department/city-council/reparations-legislative-advisory-committee/resolutions>.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> Advisory Committee, *supra* note 122.

<sup>132</sup> *Id.*

committee.<sup>133</sup> The committee must develop policy and legislative proposals for the Commission.<sup>134</sup>

The Committee will meet from July 2021 through June 2022 and is expected to submit a written report to City Council no later than June 10, 2022.<sup>135</sup> The Committee will present its recommendations on June 15, 2022.<sup>136</sup> Such findings will provide the framework to establish the Saint Paul Recovery Act Community Reparations Commission.<sup>137</sup> Thereafter, the committee will be disbanded.<sup>138</sup> Once the Commission is established, it will recommend actions to address “the creation of generational wealth for the American Descendants of Chattel Slavery and boost economic mobility and opportunity in the Black community.”<sup>139</sup> In a recent update, the Saint Paul task force scheduled four public meetings in April 2022 to offer information about the “newly created commission that will make reparations to descendants of slavery.”<sup>140</sup>

### vii. Asheville, NC

On July 14, 2020, the City Council of Asheville, North Carolina unanimously passed a resolution to support racial equity measures for its Black community members.<sup>141</sup> Within the resolution, Asheville apologized for its participation in and the sanctioning of slavery of Black people and its enforcement of both segregation and the accompanying discriminatory practices.<sup>142</sup> Asheville further acknowledged that it carried out “an urban renewal program that destroyed multiple, successful black communities.”<sup>143</sup> Asheville also

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<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> John Reinan, *St. Paul Begins Process Leading to Reparations*, STAR TRIBUNE (Apr. 7, 2022), <https://www.startribune.com/st-paul-begins-process-leading-to-reparations/600162186/>.

<sup>141</sup> Joel Burgess, *In historic move, North Carolina city approves reparations for Black residents*, USA TODAY (July 15, 2020), <https://www.usatoday.com/story/news/nation/2020/07/15/asheville-passes-reparations-black-residents-historic/5441792002/>.

<sup>142</sup> Resolution Supporting Community Reparations for Black Ashville, <https://drive.google.com/file/d/1WKialVISWzu72mhasyy9SslDbVGMSj5U/view>.

<sup>143</sup> *Id.*

noted examples of the systemic racism present in its community as well as the nation.<sup>144</sup> City Council members aim to create generational wealth for Black people who have suffered from disparities in income, education, and health care.<sup>145</sup> Similar to the racial equity measures taken in Evanston, the Asheville resolution seems to target specific areas within the racial wealth gap to create more opportunities for the Black community.<sup>146</sup>

The resolution calls on organizations and institutions in Asheville that have benefited and advanced from racial inequity to apologize and make amends through their own systems and programs to aid Asheville in addressing systemic racism.<sup>147</sup> Next, the Council Members called to action the State of North Carolina and federal government implement policy and provide funding at the state and national levels for racial equity measures.<sup>148</sup>

The City Manager is tasked with establishing a process within the next year to “develop short-, medium- and long-term recommendations to specifically address the creation of generational wealth and to boost economic mobility and opportunity in the black community.”<sup>149</sup> The resolution then suggests that the City Manager utilize the talents of the equity department when forming such policy and programs.<sup>150</sup> Per the resolution, a new commission called the Community Reparations Commission should be established within a year to aid in repairing the damage caused by “public and private systemic racism.”<sup>151</sup> The resolution also invites community organizations to have representation on the commission and the committee must issue a report for both Asheville and other community groups.<sup>152</sup> Asheville plans to hold the appropriate offices accountable for achieving racial equity.<sup>153</sup> The report, budget, and program priorities may include racial equity measures that involve “housing, increasing minority business ownership and career opportunities, strategies to grow equity and generational wealth, closing the gaps in

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<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *See Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*



health care, education, employment and pay, neighborhood safety and fairness within criminal justice.”<sup>154</sup> The City Manager must at least provide a bi-annual update to the City Council on the progress of the actions taken pursuant to the resolution.<sup>155</sup>

Asheville Councilman Keith Young discussed some of the requirements for the racial equity measures.<sup>156</sup> Councilman Young stated, “When I crafted this resolution and the city council agreed, there were three factors that blacks needed to meet before qualifying for grants. First, you have to be an Asheville resident for five consecutive years. Second, you have to be a registered voter and third, you have to have a high school diploma or GED.”<sup>157</sup>

During their meeting on June 8, 2021, the Asheville City Council voted to appropriate \$2.1 million in proceeds from a sale of City-owned lands to fund the community reparations process.<sup>158</sup> The funding will support the project management phase with the Community Reparations Commission’s planning and community engagement process.<sup>159</sup> The remaining \$1.9 million in initial funding will aid the costs of the racial equity process. The racial equity process will establish a final report with supporting recommendations in Spring 2023.<sup>160</sup>

### viii. Detroit, MI

On June 19 (Juneteenth), 2021, the Detroit City Council unanimously approved a resolution directing the city to form a task force to study the reparations issue and acknowledge the city’s history of racially discriminatory policies and practices. The bill, sponsored by Council President Pro Tem Mary Sheffield, was intended “to help establish processes, develop, and implement community reparations in

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<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> Esther Animalu and Skylar Mitchell, *Asheville postpones \$1 million funding resolution allocated for reparation to Black residents*, ABC11.COM (Nov. 15, 2020), <https://abc11.com/asheville-reparations-slavery-black/7981910/>.

<sup>157</sup> *Id.*

<sup>158</sup> *Asheville Asks for Feedback on Reparations Nomination & Application Process*, <https://www.buncombecounty.org/countycenter/news-detail.aspx?id=19616#:~:text=At%20their%20June%202021,Reparations%20Commission's%20planning%20and%20community.>

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

Detroit for mass-historic unjust treatment of Detroit’s majority Black population.”<sup>161</sup>

Explaining that the measure acknowledges that Black people have been systematically oppressed and harmed throughout the entirety of the nation’s history, Ms. Sheffield commented,

I know one thing, it’s not a handout, you know, it is a handup. It is something that Black Detroit is owed . . . we’re going to start to study and research what are other cities doing, what fits best in Detroit, but I think it’s about creating economic upward mobility for Detroiters, generational wealth, home ownership, things that, you know, historically we’ve been left out of.<sup>162</sup>

Michigan Democratic Black Caucus Chair Keith Williams, who has long advocated for reparations for Black Detroiters, was moved by the Council’s action. “When Mary’s resolution was voted on then passed, I had tears in my eyes,” he said. “I look at the people who left Black Bottom, I thought about the people who went through police brutality. The people who’ve been impoverished all of their lives in Detroit. All of the wealth that was taken . . . . You can go back to 1792 when (William) Macomb had 26 slaves,” Mr. Williams added. “Then, you’re talking about housing. They wouldn’t give loans to African Americans, [and passed] ordinances where African Americans live in slums so they could use federal money for a highway in their

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<sup>161</sup> Louis Aguilar, *Detroit Council Endorses Reparations Resolution; November Vote Possible*, BRIDGE MICHIGAN (June 17, 2021), <https://www.bridgemi.com/urban-affairs/detroit-council-endorses-reparations-resolution-november-vote-possible>.

The resolution urged the city to examine, within a “racial equity framework,” issues involving the:

- Right to water and sanitation;
- Right to environmental health;
- Right to safety;
- Right to live free from discrimination, including people with disabilities, immigrants, LGBTQ and others;
- Right to recreation;
- Right to access and mobility;
- Right to housing;
- Right to the fulfillment of basic needs.

Ms. Sheffield actually introduced the resolution earlier in 2021, but later delayed it saying she wanted to re-introduce it closer to Juneteenth, the holiday celebrating the emancipation of enslaved people in the United States. *Id.*

<sup>162</sup> Kimberly Craig, “*It’s Not a Handout, It’s a Handup.*” *Detroit to Explore Reparations for African-American Residents*, WXYZ.COM (June 17, 2021), <https://www.wxyz.com/news/its-not-a-handout-its-a-hand-up-detroit-to-explore-reparations-for-african-american-residents>.

community. Then you go to the ‘67 riots . . . . [But today,] I say God is a good God.”<sup>163</sup>

“Detroit is the Blackest big city in the nation,” observed Lauren Hood, chairwoman of the Detroit City Planning Commission. “Eight out of every 10 people here are due some sort of reparation. Can you imagine how the landscape of the city might change socially, economically, spiritually, if we actually get what we’re owed?”<sup>164</sup>

Later in 2021, more than 80 percent of Detroit voters approved a ballot proposal in November “to establish a reparations Task Force to make recommendations for housing and economic development programs that address historical discrimination against the Black community in Detroit.”<sup>165</sup> The City’s Legislative and Policy Division is in charge of the process for forming the Task Force, which is directed to “develop short-, mid- and long-term recommendations within the next year to address the creation of generational wealth and boost economic mobility and opportunity in the Black community.” As instructed by a steering committee, the Legislative and Policy Division is studying the work of reparations committees in other governments, such as Asheville, North Carolina; Evanston, Illinois; and the State of California.<sup>166</sup> Like these others, “Detroit is focused on addressing issues around housing and economic development.” As Mr. Williams explained, “The movement around the country is to implement local reparations that address past harm based on zoning ordinances that took a tremendous amount of wealth potential from African Americans. It’s about how do we put housing and economic development back on the table.”<sup>167</sup> The hope is to have recommendations before the City Council by the summer of 2022.

Funding mechanisms are still undecided but include the possibility of collecting tax revenue from recreational marijuana.

<sup>163</sup> Dana Afana, *Detroit City Council Pushes Ahead With Reparations Initiative*, FREEP.COM (June 15, 2021), <https://www.freep.com/story/news/local/michigan/detroit/2021/06/15/city-council-oks-reparations-resolution/7701740002>.

<sup>164</sup> Sarah Rahal, *Who Should be Eligible for Detroit Reparations*, THE DETROIT NEWS, GOVERNING.COM (Mar. 4, 2022), <https://www.governing.com/now/who-should-be-eligible-to-receive-detroit-reparations>.

<sup>165</sup> David Whitaker, *Memo: Models for Structure of Detroit Reparations Task Force*, CITY OF DETROIT LEGISLATIVE POLICY DIVISION (January 27, 2022), <https://detroitmi.gov/sites/detroitmi.localhost/files/2022-01/FINAL%20Rprtns%20Mdl%20Rprt%20012622.pdf>.

<sup>166</sup> See *supra* note 160 and accompanying text.

<sup>167</sup> Rahal, *supra* note 164.

Whatever sort of reparations program emerges, Ms. Hood says that it “needs to be an effort that exists in perpetuity to address racial disparities” caused from generations of disinvestment and trauma in Black communities. She recognizes the “political pressure to do something now,” but cautions, “My concern is that we could cut a check next year, but that check could be far smaller than the reward that we could have gotten if we took longer to investigate and be intentional about it.” She acknowledges, “[w]e need to do something now because I feel like people might lose hope if they don’t see something happen in the near term, but we also need to be planning for something that’s sustained over a longer period of time.”<sup>168</sup>

Citizens were directly surveyed on how the Task Force should be formed. The survey, which ran on the city’s website until March 2022, asked whether “serving on the commission [should] be limited to Detroit residents alone [(and if so, how long must they have lived in the city)], or should expertise from outside the city be welcomed? Should members be solely African Americans? . . . . [Also,] what experience or background should they have?”<sup>169</sup> Regarding the City Council’s role, President Pro Tem Mary Sheffield commented, “I was very adamant about this being a community-driven thing and so we don’t even want to create how we select the people or what the criteria are. We want the community to decide that.”<sup>170</sup>

Regarding the potential of public resistance to reparations programs, experts suggest that “when the money used to distribute reparations is created by the citizen’s committee that it represents, it’s a mechanism of great potential, where people use a democratic process to decide what they can or will do for one community.”<sup>171</sup> As Dr. Robert Fullilove, professor of sociomedical sciences at the Columbia University Irving Medical Center, said, “I think that [model] has a greater chance of working, of being accepted and actually going from thought to fruition than anything that’s out there now, because all I see is that reparations just go against what courts, and an increasingly conservative nation, are willing to support.”<sup>172</sup>

And, as Ms. Hood observes, “the world is also different now. After George Floyd happened, people even if they were doing it from

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<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

a more performative place, got more vocal about racial equity and . . . are taking a step in a direction they haven't before."<sup>173</sup> Combine that with the fact that private and public entities alike have made public statements about improving racial equity, and we have "a tool we haven't had before."<sup>174</sup> "[Detroit] is the place, nationally, where reparations could have the biggest impact because so many of us are entitled to it."<sup>175</sup>

### ix. Durham, NC

On June 22, 2021, the City Council of Durham, North Carolina approved the allocation of \$6 million in equity adjustments to go toward green and equitable infrastructure in historically Black neighborhoods; and further stated its intention to continue allocating money every year going forward.<sup>176</sup> The action followed from the Council's passage in 2018 of "a resolution calling for reparations to descendants of enslaved people . . . [and its 2020 vote] to invest in things like home ownership or health care in areas where Black residents face disparities."<sup>177</sup>

Durham's efforts to seriously address the issue of reparations and racial equity began in 2018 with the formation of a 17-member Racial Equity Taskforce, which over the course of the next two years studied a broad range of matters involving "wealth and the economy, criminal justice, health and environmental justice, education, and public history."<sup>178</sup> The resulting 60-page report, submitted to council in July 2020, concluded that the institutional frameworks that had been put in place over time to run the criminal justice, housing, healthcare, and educational systems had "been designed to protect the rights of white people," which had then served to "indoctrinate others with the belief that the white race is superior."<sup>179</sup>

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<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> Naomi Prioleau, *Durham Commits \$6 Million in Approved Budget*, WUNC.ORG (June 22, 2021), <https://www.wunc.org/race-demographics/2021-06-22/durham-commits-million-reparations-approved-budget-slavery>.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> Thomas McDonald, *Durham City Council Members Approve Reparations Resolution*, INDYWEEK.COM (Oct. 16, 2020), <https://indyweek.com/news/durham/durham-city-council-passes-reparations-resolution/>.

Mayor Steve Schewel commented, “The historic injustices from slavery from Jim Crow, and now the injustices that continue today, have had an incredibly disproportionate burden on our African American brothers and sisters here in Durham and around the country. And this it has led to an enormous racial wealth gap that is unjust.” Mayor Schewel added that while the local efforts are important, it is not enough: “[W]e can do things that are reparative every day in our work in the city, [but] that’s different from really having a [national] program of reparations. And I think that’s an important distinction.”<sup>180</sup>

To that end, in 2020 Durham’s City Council approved a resolution calling on the state’s representatives in Congress to support national measures designed to “increase racial equity.”<sup>181</sup> The resolution calls for the “‘immediate enactment’ of programs to provide reparations to the descendants of enslaved Africans in order to eliminate the racial wealth gap, create a universal basic income, provide guaranteed living-wage jobs that are in the federal sector or federally funded, and increase the federal minimum wage to \$15 or higher.”<sup>182</sup> As Mayor Pro Tem Jillian Johnson put it: “Federal reparations are the best way to account and compensate Black Americans for the many decades of government policy that have advantaged white people and disadvantaged Black people.”<sup>183</sup>

viii. Athens, Georgia

On February 16, 2021, the ten commissioners of the Unified Government of Athens-Clarke County, Georgia, voted unanimously to adopt a resolution apologizing for the county’s role in destroying Linnentown, a Black, middle-class community that was displaced by eminent domain under the guise of “urban renewal” to build three dormitories at the University of Georgia in the early 1960s.<sup>184</sup> (Such tactics were long in common use by governments across the United

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<sup>180</sup> Prioleau, *supra* note 176.

<sup>181</sup> McDonald, *supra* note 179.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> Rachel M. Cohen, *Inside the Winning Fight for Reparations in Athens, Georgia*, THE INTERCEPT (Apr. 9, 2021), <https://theintercept.com/2021/04/09/reparations-georgia-athens-uga-linnentown/>. The resolution followed by two weeks a signed proclamation from County Mayor Kelly Girtz which stated: “The Unified Government of Athens-Clarke County extends to former residents of Athens’ Urban Renewal Districts, their descendants, and to all Athenians a deep and sincere expression of apology and regret for the pain and loss stemming from this time, and a sincere commitment to work toward better outcomes in all we do moving forward.” *Id.*

States to displace Black communities — as author and activist James Baldwin observed in a contemporaneous interview, “urban renewal is negro removal.”<sup>185</sup>) The resolution acknowledges that the seizure of residents’ property amounted to “an act of institutionalized white racism and terrorism resulting in intergenerational Black poverty, dissolution of family units, and trauma.”<sup>186</sup>

The resolution then pledges:

to determine the total amount of intergenerational wealth lost to urban renewal and ... make annual budgetary recommendations ... for operational and capital projects to provide equitable redress, including but not limited to affordable housing, economic development, telecommunication services, public transportation, and public art as redress for past harms caused by urban renewal and to foster future

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<sup>185</sup> James Baldwin, Interview on WNDT-TV, New York City, (May 28, 1963).

<sup>186</sup> *Resolution in Support of Recognition and Redress for Linnentown, Its Descendants, and Athens-Clarke County Black Communities Harmed by Urban Renewal*, ATHENS-CLARKE COUNTY UNIFIED GOVERNMENT (Feb. 26, 2021),

<https://www.accgov.com/DocumentCenter/View/75675/Linnentown-Resolution—Final-Version?bidId=> (hereinafter “*Athens Resolution*”). The resolution gives a sense of the nature and scope of the injustices perpetrated by the City of Athens and State of Georgia:

WHEREAS, the City of Athens seized Linnentown properties through eminent domain for as little as \$1450 and families were displaced to public housing or sporadically throughout the City of Athens; WHEREAS, through intimidation, weaponized code enforcement, inequitable property value judgments, controlled demolition by fires, forced tenancy and rent, tokenized Black representation, invasions of financial privacy, and paternalistic relocation policies, Linnentown was effectively erased without a trace by the City of Athens and the University System of Georgia;

WHEREAS, by 1966, the City of Athens had sold all Linnentown properties to the University System of Georgia for \$216,935, and by 2019, the University’s current land value plus improvement value of this property totaled \$76 million for a return on investment of 35,000 percent with an annualized return of approximately \$8.8 million (11.6 percent per annum);

WHEREAS, instead of investing money and resources into Linnentown for it to achieve middle-class status, the City of Athens and the University System of Georgia perpetrated an act of institutionalized white racism and terrorism resulting in intergenerational Black poverty, dissolution of family units, and trauma through the forcible removal and displacement of Black families, and the accumulation of the majority of their wealth and political power within the University System of Georgia and the City of Athens.

*Id.*

reinvestment in historically underfunded and impoverished neighborhoods in Athens-Clarke County.<sup>187</sup>

Efforts are ongoing by Athens Mayor Kelly Girtz and others to calculate the amount of intergenerational wealth lost by Linnentown descendants as a result of the forced displacement, and to determine appropriate means of compensation.<sup>188</sup>

The resolution also pledges to “seek to establish a partnership with the University System of Georgia to recognize the history and legacy of Linnentown and its descendants through the installation of an on-site ‘Wall of Recognition’; [to] erect applicable historical markers, ... and [to] create and co-fund a local center on slavery, Jim Crow laws, and the future of Athens’s Black communities.”<sup>189</sup>

An April 12, 2022 work session presentation of the “Athens Justice and Memory Project: Linnentown”<sup>190</sup> outlined the considerable progress made to date by the County and Linnentown descendants<sup>191</sup>

<sup>187</sup> *Id.*

<sup>188</sup> Cohen, *supra* note 184. Any sort of direct compensation faces a sticking point in the so-called gratuities clause in Georgia’s constitution, an anti-corruption provision which prohibits direct cash payments from local governments to individuals and nonprofits. Activists are lobbying the state legislature to amend this provision.” *Id.*

<sup>189</sup> *Athens Resolution, supra* note 186.

<sup>190</sup> Hattie Thomas Whitehead, Jennifer Rice, Selah Gardiner, *Athens Justice and Memory Project: Linnentown* ATHENS JUSTICE AND MEMORY PROJECT (AJMP) (Apr. 12, 2022), <https://www.accgov.com/9922/Athens-Justice-and-Memory-Project>.

<sup>191</sup> The University of Georgia still has not stepped up to participate. As reported by *The Intercept*:

While a year of pressure, one-on-one meetings, and racial justice organizing helped bring the mayor and all 10 county commissioners on board, the [University of Georgia (UGA)] still spurns any suggestion of its culpability. UGA sent a statement to Athens-Clarke County commissioners in January 2020, saying it “respectfully disagrees” with the “conclusions” of the Linnentown Project. ... [Former Linnentown resident Hattie] Thomas Whitehead said she’s disappointed but not surprised UGA has given them the cold shoulder. “UGA has never acknowledged anything they’ve ever done that was not in the community’s favor,” she said. This year, the university is celebrating its 60th anniversary of desegregation, replete with signs and commemorative events throughout the spring. On its special website for the cause, the university is soliciting donations to “support diversity, equity and inclusion efforts across campus today.

*Id.*

As Joseph Carter (whose research as a philosophy doctoral student and library employee at UGA in 2018 led to the unearthing of the Linnentown history) stated, “They [the UGA



on these aspects of the resolution. Specifically, the presentation described the “Linnentown Walk of Recognition” (concept design completed); and the Athens-Clarke County Center for Racial Justice and Black Futures (concept in development).<sup>192</sup> Project leaders have sought broad engagement in both projects, beginning with a virtual community stakeholder meeting in May, 2021; followed by a virtual community input meeting in August; in-person brainstorming meetings in October, November and December; a meeting with descendants and receiving feedback from the Association for the Study of African American Life and History in December; and working with local educators to organizing workshops in 6<sup>th</sup>-12<sup>th</sup> grade classrooms in the early months of 2022.<sup>193</sup> Additional workshops and meetings are ongoing to this date.<sup>194</sup>

### III. CONCLUSION

This Essay has provided a brief survey of reparations and racial equity measures that exist at the federal, state, and local levels as of Spring 2022. The next article in the Series, “40 Acres and a Mule, Plus Interest Part 2: A Critique and Study on Emerging Reparation and Racial Equity Measures,”<sup>195</sup> will explore slavery’s crippling legacy in greater detail, and then update and further discuss emerging measures at each governmental level. In so doing it will point out the shortfalls of the various approaches to redress historic injustice and offer suggestions on how such measures could effectuate the change necessary for a just and equitable society.<sup>196</sup>

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representatives] continue to ignore the residents and that in itself is just a continued slap in the face. They’re just acting like it’s the 1960s all over again.” Cohen, *supra* note 184.

<sup>192</sup> Thomas Whitehead et al, *supra* note 190.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> See *supra* note 5 and accompanying text.

<sup>196</sup> Among the efforts to be reviewed is the National African American Reparations Commission’s (NAARC’s) “10-Point Reparations Program,” a self-described “document for review, revision and adoption as a platform to guide the struggle for Reparations for people of African descent in the U.S. The ten points are:

1. A Formal Apology and Establishment of a African Holocaust (Maafa) Institute
2. The Right of Repatriation and Creation of an African Knowledge Program
3. The Right to Land for Social and Economic Development
4. Funds for Cooperative Enterprises and Socially Responsible Entrepreneurial Development

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5. Resources for the Health, Wellness and Healing of Black Families and Communities
  6. Education for Community Development and Empowerment
  7. Affordable Housing for Healthy Black Communities and Wealth Generation
  8. Strengthening Black America’s Information and Communications Infrastructure
  9. Preserving Black Sacred Sites and Monuments
  10. Repairing the Damages of the “Criminal Injustice System”

*Reparations Plan*, NATIONAL AFRICAN-AMERICAN REPARATIONS COMMISSION, <https://reparationscomm.org/reparations-plan/>.

More recently, NAARC issued a statement on March 25, 2022, discussing “Who Should Receive Reparations and in What Forms?” <https://reparationscomm.org/naarc-news/press-releases/who-should-receive-reparations-and-in-what-form-032522/>.