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Restitution for Haiti, Reparations for All: Haiti's Place in the Global Reparations Movement

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Haiti's claim for restitution of the debt coerced by France in exchange for Haiti's 1804 independence has unique legal advantages that can open the door to broader reparations for the descendants of all people harmed by slavery. But in order to assert the claim, Haiti first needs help reclaiming its democracy from a corrupt, repressive regime propped up by the powerful countries that prospered through slavery and overthrew the Haitian President who dared to assert his country's legal claim. This article explores Haiti's Independence Debt, and the fight for restitution of it, in the context of two centuries of continued struggle between Haitians asserting their independence and countries enriched by slavery trying to limit the power of Haiti's example.

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I. INTRODUCTION

The movement for reparations due to enslavement and the myriad of related, ongoing harms¹ is advancing globally – despite pushback – in nations such as the United States and the Caribbean. Haiti can accelerate the process of global reparations through its claim for restitution of the Debt coerced by France in exchange for Haiti’s independence. This claim for restitution has unique legal advantages that can open the door to broader reparations claims worldwide. But Haiti cannot go it alone. After making a claim for restitution and, therefore, contributing to the global reparations movement, Haiti now needs that movement to help the nation reclaim its democracy from a corrupt, repressive regime propped up by the powerful countries that prospered through slavery and have undermined Haiti’s sovereignty since its independence in 1804.²

¹ These harms include systemic anti-Black discrimination, prejudice, and exploitation, including the systematic denial of access to social and economic rights – all part of the ongoing system of white supremacy. *See* Press Release, Secretary General, Reverse Consequences of Slavery, End Present-Day Bias Against African Descendants, Secretary-General Urges General Assembly at Event for International Observance, U.N. Press Release SG/SM/21210 (Mar. 29, 2022), <https://press.un.org/en/2022/sgsm21210.doc.htm>; *see also* U.N. General Assembly, 77th Sess., 63rd mtg., Transformative Education, Concrete Steps Key to Address Scars of Transatlantic Slave Trade, End Socioeconomic Disparities, Speakers Tell General Assembly (Mar. 27, 2023), <https://press.un.org/en/2023/ga12496.doc.htm>.

² Restitution provides a remedy where a defendant has been unjustly enriched through an unlawful act or a breach of contract. *See Restitution*, CORNELL L. SCH. LEGAL INFO. INST., <https://www.law.cornell.edu/wex/restitution> (last visited Nov. 1, 2023). Recovery amounts are based on the defendant’s gain, not on the plaintiff’s loss. *Id.* Reparations provide a remedy for damages caused by the

Haiti's claim for restitution of the Independence Debt is a subset of the claims that Haitians – like other people of African descent – have for reparations from slavery.³ These reparations claims seek both justice and accountability for a history of enslavement and colonialism. They also seek to prevent modern-day corollaries of that history, including discrimination rooted in anti-Black racism and limitations on genuine freedom and equality for Black individuals and communities. As part of this national and global reparations context, Haiti's claim for restitution of the Independence Debt brings to the broader fight distinct legal theories based on the unique harm imposed on Haiti by the slave-holding powers.

In 1804, Haiti defeated French leader Napoleon Bonaparte on the battlefield to win its independence. But the countries that dominated the Atlantic world at the time – especially France, the United States, Great Britain, and Spain – maintained their power through slavery and white supremacy, something that would not survive if Haiti became free and prosperous.⁴ Therefore, they embarked on a centuries-long coordinated campaign to ensure that Haiti would not succeed, a campaign which included refusal of recognition or

defendant's harmful act, and to reestablish the plaintiff to a level prior to the harmful act at issue. *See Reparations: OHCHR and Transitional Justice*, U.N. OHCHR, <https://www.ohchr.org/en/transitional-justice/reparations> (last visited Nov. 1, 2023). Reparation claims may also include restitution. *See generally id.*

³ The Independence debt refers to the debt France imposed on Haiti in exchange for Haiti's freedom.

⁴ *See* Ann Crawford-Roberts, *A History of United States Policy Towards Haiti*, BROWN UNIV. LIBR., <https://library.brown.edu/create/modernlatinamerica/chapters/chapter-14-the-united-states-and-latin-america/moments-in-u-s-latin-american-relations/a-history-of-united-states-policy-towards-haiti/> (addressing France and the United States); *see also* RANDALL ROBINSON, *AN UNBROKEN AGONY: HAITI, FROM REVOLUTION TO THE KIDNAPPING OF A PRESIDENT* 8-9 (2007) (“ . . . [Thomas] Jefferson had expressed his continued concern over black rebellion to Rufus King, lamenting that the ‘course of things in the neighboring islands of the West Indies appeared to have given a considerable impulse to the minds of the slaves’ in the United States and ‘a great disposition to the insurgency has manifested itself among them.’”); *id.* at 18 (quoting a former U.S. senator: “Our policy with regard to Haiti is plain. We never can acknowledge her independence . . . The peace and safety of a large portion of the union forbids us to ever discuss it.”); *id.* at 58 (“France was not the only Western society that would capitalize an industry economy with proceeds amassed from slave labor. The United States, Spain, Holland, Denmark, and Great Britain would do much the same.”).

normal trade relations, the forced Independence Debt in 1825, and persistent economic and military interventions for over two centuries.⁵

This coordinated campaign succeeded in keeping Haiti impoverished⁶ and sharply limiting its sovereignty.⁷ A measure of the campaign's success is that, with a single exception, no Haitian government has asserted the country's legal claim for restitution of the Independence Debt, despite the strength of the claim, popular support

⁵ See ROBINSON, *supra* note 4, at 16 (“Even before France leveraged the weak new state with crushing financial reparations in 1825, the United States and western Europe . . . moved . . . to cripple the fledgling nation socially, politically, and economically, just as France was fashioning new policies to favor Haiti’s minority community of French white ex-colonists and mulattoes . . .”); *id.* at 20 (“[T]he new Republic of Haiti was met with a global economic embargo imposed by the United States and Europe[] . . . strengthened by a further demand from France for financial reparations of roughly \$21 billion . . . as compensation from the newly freed slaves for denying France the further benefit of owning them.”). See generally Paul Farmer, *Who Removed Aristide? Paul Farmer Reports From Haiti*, LONDON REV. BOOKS (Apr. 15, 2004), <https://www.lrb.co.uk/the-paper/v26/n08/paul-farmer/who-removed-aristide> (noting the debt France forced Haiti to pay in 1825 “under threat of another French invasion” and how the United States “eclipsed France as a force in” Haiti by the late 1800s); PETER HALLWARD, DAMMING THE FLOOD: HAITI AND THE POLITICS OF CONTAINMENT 1–38 (Verso 2007) (reciting Haiti’s history and relations with other nations); Mario Joseph, Bureau des Avocats Internationaux, Statement for the Second Session of the Permanent Forum on People of African Descent – Thematic Discussion: Global Reparatory Justice, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/forums/forum-african-descent/sessions/session2/statements/PFPAD-session2-grj-ngo-Bureau-des-Avocats-Internationaux.pdf>.

⁶ See Michael Harriot, *As Haiti Burns, Never Forget: White People Did That*, THE ROOT (July 9, 2018), <https://www.theroot.com/as-haiti-burns-never-forget-white-people-did-that-1827454590>; see also ROBINSON, *supra* note 4, at 22, 54.

⁷ See ROBINSON, *supra* note 4, at 18 (“[The] United States, France, and western [sic] Europe would quickly join together in a program of measures designed to defeat the new black republic’s prospects for success. For the next two hundred years, Haiti would be faced with active hostility from the world’s most powerful community of nations[] . . . including military invasions, economic embargoes, gunboat blockades, reparations demands, trade barriers, diplomatic quarantines, subsidized armed subversions, media volleys of public traducement, and a string of . . . of U.S.-armed black dictators . . .”); see also *id.* at 51–52 (quoting Frederick Douglass contemporaneously remarking that “[i]t so happens that we have men in this country (the United States) who, to accomplish their personal and selfish ends, will fan the flames of passion between the factions in Haiti and will otherwise assist in setting revolutions afoot.”).

for it, and Haiti's need for funds. It was no accident that the single assertion of the claim was made in 2003 by a highly-popular democratic government as part of a broader effort to both enlarge Haiti's sovereignty and to challenge structural injustice in relations between former slave-owning nations and majority Black nations.⁸ A free Haiti with the resources to challenge powerful countries' global hegemony is exactly what former slave-holding states have always feared.⁹ It is also no accident that the same countries that dominate the Americas and the UN Security Council ensured that Haiti would not succeed through a coordinated campaign that included economic sanctions, support for Haitian elites trying to overthrow the popular government, and, finally, kidnapping Haiti's president.¹⁰

Haiti's 2003 reparations claim was not abstract. The government made claims for money that would be used to build schools and hospitals, develop Haiti's economy, and allow the government to provide the basic government services that stable and prosperous governments provide. Haiti explained that their country lacked this infrastructure, unlike France, precisely because so much wealth was extracted from Haiti with the Independence Debt. This reframed the dominant narrative to explain how poverty, limited infrastructure, and weak governance had resulted from local corruption and natural disasters,¹¹ to give appropriate weight to the contributions of white

⁸ Cf. Jacqueline Charles, *Aristide Pushes for Restitution from France*, MIAMI HERALD (Dec. 18, 2003), <https://www.latinamericanstudies.org/haiti/haiti-restitution.htm>.

⁹ See *id.* at 260 (“[T]he Americans, the French, the Canadians, the armed thugs, the rich, the Convergence politicians *knew* what couldn't be said out loud for the public record . . . the ‘problem’ was the very idea of democracy [in Haiti] itself.”) (emphasis in original). See generally ROBINSON, *supra* note 4, at chs. 11, 21.

¹⁰ See Farmer, *supra* note 5; see also Irwin P. Stotzky & Brian Concannon, Jr., *Democracy and Sustainability in Reconstructing Haiti: A Possibility or a Mirage?*, 44 U. MIA INTER-AM. L. REV. 1, 9, 31 (2012); *infra* note 69.

¹¹ Compare Farmer, *supra* note 5 (“An understanding of the current crisis requires a sense of Haiti's history[,]” including colonialism, slavery, the Independence Debt, the United States' occupation, and ongoing political interference), and Kenneth Mohammed, *Haiti Faces Famine – But Its Trouble Are Rooted in a Brutal Colonial Past*, GUARDIAN (Dec. 14, 2022, 2:15 AM), <https://www.theguardian.com/global-development/2022/dec/14/haiti-faces-famine-but-its-troubles-are-rooted-in-a-brutal-colonial-past> (“Many believe that Haiti's problems were ancestral and self-inflicted but there is more to this story. The propensity of the US to prop up strongmen contributed over and over to the sad state of Haiti, and let's not forget the opportunistic siphoning of aid by the very agencies that

supremacy, from slavery to the Independence Debt to current economic predation.¹²

Haiti's reframing of the narrative demonstrated how decades of forced debt, predatory financing, and foreign interference drained Haiti's economy, severely limited its capacity to invest in social services, and forced reliance on foreign aid.¹³ *A New York Times*

collected donations from around the world.”), with World Bank Group [WBG], *The World Bank in Haiti: Overview*, <https://www.worldbank.org/en/country/haiti/overview> (last updated Oct. 26, 2023) [under “Context”] (“Haiti’s economic and social development continues to be hindered by political instability, increasing violence and unprecedented levels of insecurity, which exacerbate fragility. . . . Haiti remains one the most vulnerable countries worldwide to natural hazards, mainly hurricanes, floods, and earthquakes.”), and Larry Thompson, *Forgotten People: Haiti*, U.N. Off. for the Coordination of Humanitarian Aff. (Sept. 15, 2003), <https://reliefweb.int/report/haiti/forgotten-people-haiti> (“The root cause of Haiti’s problems is bad government. Since the 1950s and the era of ‘Papa Doc’ Duvalier, Haiti has been ruled by one corrupt, unstable regime after another.”).

¹² See Sandra Wisner & Brian Concannon, *Debt and Dependence: Foreign Interference in Haiti and the Importance of Non-State Actor Accountability*, 21 NW J. HUM. RTS. 185, 185–88 (2023), <https://scholarlycommons.law.northwestern.edu/njihr/vol21/iss3/1/>. See also Mario Joseph & Beatrice Lindstrom, *What the World Owes Haiti Now*, JUST SEC. (June 29, 2022), <https://www.justsecurity.org/82115/what-the-world-owes-haiti-now/> (“A recent *New York Times* investigation has sparked renewed conversation about how we reckon with the often-overlooked role of foreign intervention in Haiti’s founding history, especially the independence debt that France extracted from Haiti in 1823 to compensate for its loss of ‘property’ – including enslaved people. But unjust foreign intervention in Haiti did not stop in 1823 – it continues today.”); ROBINSON, *supra* note 4, at 25–26 (“From Thomas Jefferson onward, race largely explains the conspicuously historic . . . American affinity for rigidly anti-democratic forces in Haiti . . . [quoting Langston Hughes] ‘ . . . Haitians have ample reason to believe that where the world’s white nations are concerned, notions of democracy and other abstract decencies weigh little against the ageless and seductive traditions of color prejudice and greed. *The leaders of the white world simply do not accord to the constitutions and laws of black countries the near sanctity they accord to their own.*”) (emphasis added); *id.* at 37 (“The color problem in Haiti dates as far back as the December 9, 1492, arrival of Christopher Columbus. More than three hundred years thence, the . . . United States, France, and western Europe continue to play the unconstructive roles they have always played. In Haiti today, color remains as insuperable a barrier to social progress as ever.”); *id.* at 48–49.

¹³ JAKE JOHNSTON, AID STATE: ELITE PANIC, DISASTER CAPITALISM, AND THE BATTLE TO CONTROL HAITI (forthcoming 2024). See also Wisner, *supra* note 12; see also ROBINSON, *supra* note 4, at 18–22 (“The Haitian economy has never

investigation into the debt estimated that it cost Haiti between \$21 and \$115 billion (USD) in economic growth.¹⁴ If the countries and institutions responsible for implementing such debts¹⁵ meet their legal obligations for reparations and restitution, Haiti can meaningfully invest in those missing services and in sustainable, Haitian-led development.

As framed above, Haiti's damages from the Independence Debt can be calculated more easily than other historical reparations claims. The amount that Haiti paid to France is clearly established. Reasonable minds might differ over the applicable interest rates or how to best calculate opportunity costs, but economists and courts make those decisions regularly, and it should be relatively straightforward to come up with a reasonable damage amount after a democratic debate.¹⁶ Haiti's claim also has no standing issues, which has proven an obstacle to other reparations claims when courts ruled that the plaintiffs before them could not establish that they were personally injured by slavery.¹⁷ In Haiti's case, the government was party

recovered from the financial havoc France (and America) wreaked upon it, during and after slavery.”); *id.* at 50–54, 57–59; *infra* note 28.

¹⁴ See Lazaro Gamio et al., *The Ransom: Haiti's Lost Billions*, N.Y. TIMES (May 20, 2022), <https://www.nytimes.com/interactive/2022/05/20/world/americas/en-slaved-haiti-debt-timeline.html>.

¹⁵ Haiti's strongest restitution claim is against France, the country directly responsible for the coerced Independence Debt and for the billions of dollars of lost economic development caused by the debt. See generally Greg Rosalsky, 'The Greatest Heist In History': How Haiti Was Forced to Pay Reparations for Freedom, NPR (Oct. 5, 2021 10:25 AM), <https://www.npr.org/sections/money/2021/10/05/1042518732/-the-greatest-heist-in-history-how-haiti-was-forced-to-pay-reparations-for-freed> (quoting Professor Marlene Daut as stating the independence debt “severely damaged the newly independent country's ability to prosper.”). However, Haiti also likely has claims against other countries and institutions – including the United States and several French and American banks, including the Citi Bank group – whose extractive and exploitative practices caused further economic harm. See Matt Apuzzo et al., *Invade Haiti, Wall Street Urged. The U.S. Obligated.*, N.Y. TIMES (May 20, 2022), <https://www.nytimes.com/2022/05/20/world/haiti-wall-street-us-banks.html>.

¹⁶ See THOMAS PIKETTY, *A BRIEF HISTORY OF EQUALITY* 74 (Steven Rendall trans., The Belknap Press of Harvard Univ. Press 2022) (2021).

¹⁷ For example, on July 5, 2023, France's Supreme Court, the *Cour de Cassation*, dismissed claims filed by three groups in Martinique, ruling that the plaintiffs had failed to demonstrate that they had “suffered individually” from slavery. See Cara Anna, *France's Supreme Court Rejects Groups' Request for Slavery Reparations in Case from Martinique*, AP NEWS (July 5, 2023, 9:41 AM),

to the original coerced agreement and suffered the damages incurred by the Independence Debt.

Haiti's reparations claims – like those of other people of African descent – did not stop accumulating with emancipation but include subsequent and ongoing harms such as continued economic and political interference. In Haiti's case, the harms include powerful actors' helping to install and prop up successive corrupt governments favorable to foreign interests and unresponsive to the Haitian people.¹⁸ The resulting weakening of democratic institutions, unchecked extractive practices, and corruption have left Haiti in a cycle of crises, of which the current catastrophic situation is only the latest manifestation.¹⁹ In their reliance on international support for maintaining power, the foreign-supported Haitian governments will also never raise a reparations claim. Democratic self-determination by Haitians without foreign interference is therefore a necessary part of reparations-related mobilization.

<https://apnews.com/article/france-slavery-court-reparations-caribbean-martini-que-ac8773c418ee15ff96cadf0101b6f6d8>.

¹⁸ See, e.g., Yves Engler, *Canada's Role in the 'Core Group' Is Weakening Haitian Democracy*, CANADIAN DIMENSION (Oct. 21, 2021), <https://canadiandimension.com/articles/view/how-canadas-role-in-the-core-group-is-weakening-haitian-democracy>. See also *Haiti - FLASH : Ariel Henry Prime Minister of Haiti (Official)*, HAITI LIBRE (July 20, 2021, 6:23 AM), <https://www.haitilibre.com/en/news-34274-haiti-flash-ariel-henry-prime-minister-of-haiti-official.html>; Jake Johnston, *Haiti's Eroding Democracy*, JACOBIN (Feb. 13, 2017), <https://jacobin.com/2017/02/haiti-election-democracy-neoliberal-clinton-jovenel-moise-martelly-aristide-preval-duvalier/>; *U.S. Invasion and Occupation of Haiti, 1915–34*, OFF. OF THE HISTORIAN, <https://history.state.gov/milestones/1914-1920/haiti> (last visited Sept. 28, 2023) [hereinafter *U.S. Invasion of Haiti*]; ROBINSON, *supra* note 4, at 18–19, 25, 48–49.

¹⁹ See HUMAN RIGHTS AND RULE OF LAW IN HAITI: KEY RECENT DEVELOPMENTS DECEMBER 2022 THROUGH MAY 2023 8 (2023), http://www.ijdh.org/wp-content/uploads/2023/06/HRU-June-2023-FINAL_updated-6.28.pdf (June 28, 2023) [hereinafter IJDH]. In addition, see RANDALL ROBINSON, *THE DEBT: WHAT AMERICA OWES TO BLACKS 183–89* (2000) [hereinafter “THE DEBT”], where the author describes persisting patterns of extractive neocolonialism and policies perpetuating inequality, directed at countries in Africa and the Caribbean, that maintain subjugation and poverty toward Black people. For example, the author states, “American policy, expressed bilaterally and multilaterally through institutions such as the IMF and the World Bank, is designed to keep Africa poor enough to supply [the United States] with cheap commodities and undemanding labor, viable enough to buy our manufactured exports, and unstable enough to provide a market for our guns.”) *Id.* at 186–87.

Haiti's revolution was pivotal to demonstrating that at the core of the global reparations movement is an understanding that slavery is a profound violation of human rights.²⁰ As that movement surges, Haitian voices – too often marginalized through language, geography, and impoverishment – have much to offer and should be actively recognized. Haiti's restitution claim could also serve as a catalyst for fostering legal pathways to monetary compensation for people of African descent, as well as other measures necessary for repair, healing, and justice as part of a global reckoning with the harms of slavery, colonialism, and anti-Black racism.²¹ In turn, Haiti needs the support and energy of the global reparations movement to rally behind its claim for restitution and support for the predicate of democratic self-determination.

This paper demonstrates how Haiti's restitution claim can contribute to the broader reparations movement. It begins by offering an overview of the relevant history and legal theory of the restitution claim (Section II) and the Haitian government's 2003 effort to assert the claim (Section III). The paper then discusses the efforts – by the same countries that tried to make Haiti's independence fail two centuries earlier – to prevent Haiti from claiming restitution and asserting its sovereignty (Section IV) and explains how the broader reparations community can advance the reparations movement by helping Haiti regain the democracy it needs to assert its restitution claim (Section V).

²⁰ See ROBINSON, *supra* note 4, at 5–6 (“Only three years after Haitian independence, the British (and Americans) ended their Atlantic slave trade. A generation later, the British freed all their slaves. Clearly this, and subsequent emancipations, did not derive simply from the events in Haiti. But the military and political successors of the ex-slaves in Haiti stood as a permanent rebuke to the social ideals which had shored up the slave empires of the Americas.”) (quoting James Walvin).

²¹ Authors have also pointed to the psychological value of seeing reparations claims succeed as a path to advancing truth, dignity, and healing. See, e.g., THE DEBT, *supra* note 19, at 208 (“We would begin a healing of our psyches were the most public case made that whole peoples lost religions, languages, customs, histories, cultures, children, mothers, fathers. It would make us more forgiving of ourselves, more self-approving, more self-understanding to see, *really see*, that on three continents and a string of islands, survivors had little choice but to piece together whole new cultures from the rubble shards of what theirs had once been. And they were never made whole. And never compensated. Not one red cent.”) (emphasis in original).

II. UNJUST ENRICHMENT

Haiti's reparations claims are rooted in a history of enslavement, self-liberation, and the outrageous price Haitians have paid for their freedom. Among their reparations claims is a distinct claim of restitution, arising from Haiti's challenge to white supremacy.

Colonial Haiti was the most lucrative overseas possession of the 18th century because France amassed great wealth off the backs of Black bodies brutally forced to work Haiti's soil.²² France accumulated wealth from Haiti that is equal to the combined GDP of England's thirteen colonies, in what later became the United States.²³ In 1791, the enslaved Haitians launched a revolt that culminated in Haiti's Declaration of Independence on January 1, 1804. This victory came after Haitians vanquished the troops of Napoleon Bonaparte, a man considered to be one of the greatest military commanders in history.²⁴

The very existence of self-emancipated slaves demanding that they run their own lives and their own country was a threat to the white supremacy underlying the wealth of France, as well as that of the United States, the United Kingdom, Spain, and Portugal.²⁵ These powerful countries had obtained their wealth through slavery and the slave trade, and they knew that if other enslaved people saw Haitians succeed in winning and exercising their freedom, then they, too, would demand, and win, their own freedom. These powerful nations also knew that recognizing Black people as free, equal, and entitled to self-determination would undermine the white

²² See PIKETTY, *supra* note 16, at 71. By the eve of the French revolution, France had been forcibly transporting 40,000 Africans — annually — to Haiti “to replace deceased slaves and replenish the slave trade[.]” *Id.* at 69.

²³ See *Economy*, JOHN CARTER BROWN LIBR. https://www.brown.edu/Facilities/John_Carter_Brown_Library/exhibitions/remember_haiti/economy.php (last visited Nov. 3, 2023); see also Simon Henochsberg, *Public Debt and Slavery: The Case of Haiti (1760-1915)* 15 (Paris Sch. of Econ. 2016) (“In 1753, the wealth of Saint-Domingue was greater than any french [sic] colonies. Exports from Saint-Domingue often represented two thirds of France’s exterior trade, more than all the english [sic] colonies combined.”).

²⁴ See C.L.R. JAMES, *THE BLACK JACOBINS: TOUSSAINT L’OUVERTURE AND THE SAN DOMINGO REVOLUTION* (2d ed. rev., Vintage Books 1989) (1963) for a detailed history leading to Haiti’s war for independence.

²⁵ *Cf.* Farmer, *supra* note 5 (“Slavery was at the heart of the thriving system of merchant capitalism that was profiting Europe, devastating Africa, and propelling the rapid expansion of the Americas.”) (quoting Laurent Dubois).

supremacist ideology that justified colonialism, enslavement, and the unequal global distribution of power and wealth.²⁶

These powerful countries took persistent and coordinated action to prevent Haiti from succeeding. They all refused to recognize Haiti and imposed a trade embargo;²⁷ in fact, the United States refused to recognize the second independent country in the Americas, for explicitly racial reasons, until 1862.²⁸ These policies excluded Haiti from the international market, devastating its new economy and making it vulnerable to coercion.²⁹

France conditioned its recognition of Haiti on Haiti providing compensation to former plantation owners for those owners' lost "property." France backed its demand with threats to invade Haiti and reinstitute slavery. It escalated the threats in 1825 by sending a fleet of warships that threatened to destroy the capital, Port-au-Prince. Haiti eventually capitulated, and under duress agreed to pay France 150 million francs (the equivalent of approximately \$560 million in today's dollars and ten times Haiti's annual revenue then) in exchange for France's recognition of Haiti's independence and as compensation for what France deemed as its lost land and human "property."³⁰

The foreign powers also operated inside Haiti by forging an alliance with the newly-emerged class of local elites to act against the

²⁶ See ROBINSON, *supra* note 4, at 7–9, 18, 25, 60–61.

²⁷ See Ta-Nehisi Coates, *America's Curse on Haiti*, THE ATLANTIC (Jan. 26, 2010), <https://www.theatlantic.com/entertainment/archive/2010/01/americas-curse-on-haiti/34183/>; see also ROBINSON, *supra* note 4, at 8–9, 18, 20.

²⁸ The United States had forged diplomatic and trade relations with the Haitian revolution before independence was proclaimed, under the respective leadership of President John Adams and General Toussaint Louverture, from 1798 to 1801. These relations seemed to come to an end under President Thomas Jefferson. See generally RONALD JOHNSON, *DIPLOMACY IN BLACK AND WHITE: JOHN ADAMS, TOUSSAINT LOUVERTURE, AND THEIR ATLANTIC WORLD ALLIANCE* (2014).

²⁹ See, e.g., ROBINSON, *supra* note 4, at 22 (“As late as 1915 . . . some 80 percent of the Haitian government's resources were being paid out in debt service to French and American banks . . . The American loan was finally paid off in 1947. Haiti was left virtually bankrupt, its workforce in desperate straits.”).

³⁰ See Marlene L. Daut, *What the French Really Owe Haiti*, THE NATION (June 13, 2022), <https://www.thenation.com/article/world/haiti-france-reparations-slavery>; see also Marlene Daut, *When France Extorted Haiti – the Greatest Heist in History*, THE CONVERSATION, <https://theconversation.com/when-france-extorted-haiti-the-greatest-heist-in-history-137949> (July 9, 2021, 2:30 PM).

country's impoverished majority. The alliance provided the elites with international recognition of titles in lands amassed since independence and access to foreign markets in order to maintain their supremacy over the peasant majority.³¹ In return, the French extracted the Independence Debt and even more durable cultural and linguistic subservience.³² This alliance persists today as foreign

³¹ See, e.g., ROBINSON, *supra* note 4, at 17, 25, 50–52, 67–68; see also *id.* at 144 (“Everyone in Haiti knew that the wealthy white families, from the beginning, were working closely with the military to quash the new democracy and restore the military dictatorship behind which the rich, over the years, had amassed unseemly fortunes on the backs of the black poor . . . [with] the full support of the United States.”). Others have argued that opportunism by Haiti’s elite is its own explanatory factor and that their mediating actions evidence a lack of coercion with respect to the Independence Debt, which undermines the factual basis for a restitution claim. For example, sociologist Alex Dupuy argues that former Haitian president Jean-Pierre Boyer accepted the Independence Debt because it was advantageous to him and his ruling elites, who attempted to maintain the French system of plantation economy as Haiti’s model of economic development, capital accumulation, and organization of production. See Introductory Remarks & Panel I: Historical, Political, and Social Issues at the Inter-American Law Review Symposium: Haiti: Reparations & Restitution (Mar. 24, 2023), <https://echo360.org/media/0f6a3900-ffb5-4c29-8259-6139e6c85c1a/public> [hereinafter Symposium]; ALEX DUPUY, HAITI IN THE WORLD ECONOMY: CLASS, RACE, AND UNDERDEVELOPMENT SINCE 1700 92–94 (1989). While this is not an unreasonable interpretation, the incentive structure of Haitian elites at the time was itself a direct result of the system of enslavement and racial hierarchy that had been imposed on Haiti since colonization. Thus, this structure was part of the long-term pattern of structures of foreign control and exploitation – perpetrated forward – rather than a causal break. See *History of Haiti*, ONE WORLD NATIONS ONLINE, <https://www.nationsonline.org/oneworld/History/Haiti-history.htm> (last visited Nov. 4, 2023) (“ . . . Saint Domingue’s society had settled into a rigid hierarchical structure based on skin color, class, and wealth During the latter eighteenth century, the fabric of Saint-Domingue’s hierarchical society began to unravel [F]ree blacks and mulattoes sought full citizenship and property right—including the right to own slaves — and arable land for farming Despite the egalitarianism of the new revolutionary regime, Haitian society remained hierarchical, with deep disparities in wealth between the mixed-race mulatto freedmen and newly emancipated blacks. Following the departure of most of the French Creoles, the mulatto minority took their place as the new elite within Haitian society.”). For a comprehensive history of Haiti’s revolution and the complicated dynamics around race and access to money and power, see JAMES, *supra* note 24.

³² See *As a Child in Haiti, I Was Taught to Despise My Language and Myself*, N.Y. TIMES (Oct. 14, 2022), <https://www.nytimes.com/2022/10/14/opinion/haiti-kreyol-creole-language-education.html> [hereinafter *As a Child in Haiti*].

powers provide political and economic support that keeps Haiti's elites in power and fabulously wealthy in one of the world's most impoverished countries.³³

It took Haiti over a century to repay the Independence Debt.³⁴ The initial payments were so far beyond what Haiti could afford that it was forced to borrow from French, and then U.S. and German, banks.³⁵ Such financing came with high interest rates and fees, along with other predatory foreign financing structures, and saddled Haiti with additional debt – known as the “double debt.”³⁶

This double debt is, to a large extent, at the root of Haiti's current poverty and instability. As other nations invested in infrastructure and public services, Haiti was forced to orient its economy towards repaying the Independence Debt, and in the process it sacrificed investment in education, healthcare, and industrial development.³⁷ Haiti was forced to allow France to set up its first National Bank in 1880, through which France controlled Haiti's treasury and ensured repayment of the debt at the expense of Haiti's public works budget.

³³ The United States has a history of supporting and protecting Haitian elites, for example, Prosper Avril, a man whose “regime engaged in a ‘systematic pattern of egregious human rights abuses,’” and Guy Philippe, who “received training, during the last coup, at a US military facility,” and André Apaid, operator of several Haitian sweatshops and the beneficiary of U.S. policy to increase garment manufacturing in Haiti. Farmer, *supra* note 5. See also Sophonie Milande Joseph & François Pierre-Louis, *How Domestic Elites and Foreign Meddling Undermine Haitian Democracy*, IN THESE TIMES (Aug. 18, 2021), <https://inthesetimes.com/article/haiti-jovenel-mo%C3%AFse-democracy-elections-united-states-elite-meddling>. ROBINSON, *supra* note 4, at 17, 25, 39–40, 50–52, 67–68, 144, 152–53, 235.

³⁴ See Marlene Daut, *France Pulled Off One of the Greatest Heists Ever. It Left Haiti Perpetually Impoverished*, THE MIAMI HERALD (July 15, 2021, 5:46 PM), <https://www.miamiherald.com/opinion/op-ed/article252809873.html>.

³⁵ See Gamio, *supra* note 14.

³⁶ See *id.*; see also Frederique Beauvois, *Monetize the Incalculable? The Santo Domingo Indemnity, Between Approximations and Tinkering*, CAIRN.INFO, <https://www.cairn.info/revue-historique-2010-3-page-609.htm#pa69> (last visited Nov. 4, 2023).

³⁷ See Daut, *supra* note 34; see also ROBINSON, *supra* note 4, at 22 (“As late as 1915 . . . some 80 percent of the Haitian government's resources were being paid out in debt service to French and American banks on loans that had been made to enable Haiti to pay reparations to France.”). See generally Wisner, *supra* note 12, at 185–86 (noting the Independence Debt “has created significant obstacles to the realization and protection of fundamental rights” and that loans conditions toward Haiti have limited “available funding for public spending”).

At the same time, nearly 85 percent of Haiti's largest source of revenue – coffee exports – was diverted to repayment of the debt.³⁸

The Independence Debt triggered a cycle of extraction, entrenched debt, and aid dependence that stunted Haiti's development and rendered the country unstable and vulnerable to elite dominance and foreign interference.³⁹ This interference included the U.S. Marine invasion and occupation from 1915 to 1934.⁴⁰ Under the pretext of a “civilizing mission” to end Haiti's “anarchy, savagery and oppression,” the United States seized Haiti's gold reserves, took control of its financial and political institutions, and reinstated forced labor reminiscent of slavery.⁴¹ The occupation served to entrench U.S. control of the region, reinforce the United States' white supremacist ideology, and derail Haiti's efforts at self-governance and economic liberation.⁴²

A more recent example of foreign interference involves the persistent international support for the brutal, but pro-Western, hereditary dictatorship of “Presidents for Life” Francois Duvalier (1957-1971) and Jean-Claude Duvalier (1971-1986).⁴³ Notwithstanding their abhorrent human rights records, which were wholly incompatible with stated international commitments,⁴⁴ the United States and

³⁸ See Gamio, *supra* note 14.

³⁹ See Joseph, *supra* note 12. Cf. Sandra Wisner & Kristina Fried, *Unfolding Haiti's Garment Industry: Decades of Unaccountable Foreign Interference*, OPINIO JURIS (Apr. 12, 2022), <https://opiniojuris.org/2022/04/12/unfolding-haitis-garment-industry-decades-of-unaccountable-foreign-interference/>; Wisner, *supra* note 12, at 206.

⁴⁰ See Peter James Hudson, *How Wall Street Colonized the Caribbean*, BOS. REV. (June 19, 2019), <http://bostonreview.net/race/peter-james-hudson-how-wall-street-colonized-caribbean>.

⁴¹ *Id.*; see also JAMES WELDON JOHNSON, SELF-DETERMINING HAITI 7 (1920) (ebook) <https://www.gutenberg.org/files/35025/35025-h/35025-h.htm>.

⁴² See JOHNSON, *supra* note 41, (“This [American] Government forced the Haitian leaders to accept the promise of American aid and American supervision. With that American aid the Haitian Government defaulted its external and internal debt, an obligation, which under self-government the Haitians had scrupulously observed. And American supervision turned out to be a military tyranny supporting a program of economic exploitation.”); see also ROBINSON, *supra* note 4, at 22. See generally Wisner, *supra* note 12.

⁴³ Cf. ROBINSON, *supra* note 4, at 18–19.

⁴⁴ See Amanda M. Klasing, *Haiti's Rendezvous with History: The Case of Jean-Claude Duvalier*, HUM. RTS. WATCH (Apr. 14, 2011), <https://www.hrw.org/report/2011/04/14/haitis-rendezvous-history/case-jean-claude-duvalier>.

others supported the Duvaliers in return for their votes against Cuba in international forums and implementation of “economic reforms” that undercut Haiti’s national production.⁴⁵ Beginning in the 1980s, the international community leveraged its financial power to condition development loans and much-needed aid on economic and social reforms that further impoverished and destabilized Haiti. Under the guise of assistance, these conditioned loans allowed the United States – including through its position of dominance in those institutions⁴⁶ – to maintain control over Haiti and advance its own geopolitical agenda.⁴⁷

The Duvaliers’ repression and economic dislocation led Haitians to once again rise up in 1986. A broad-based popular democratic

⁴⁵ See Stotzky, *supra* note 10, at 9–10; see also *Foreign Relations of the United States, 1958-1960, American Republics, Volume V: 309. Editorial Note*, OFF. OF THE HISTORIAN, <https://history.state.gov/historicaldocuments/frus1958-60v05/d309> (last visited Nov. 4, 2023) [hereinafter *Foreign Relations*]; see, e.g., *Fire in National Palace*, PUB. LIB. OF US DIPL. (JULY 23, 1973, 9:00 AM), https://www.wikileaks.org/plusd/cables/1973PORTA01220_b.html; see, e.g., HAITI: A COUNTRY STUDY: GROWTH AND STRUCTURE OF THE ECONOMY (1989) (ebook) <https://countrystudies.us/haiti/45.htm> (“The rapid development of assembly manufacturing that began in the late 1960s also stimulated economic expansion. Higher prices for coffee, sugar, cacao, and essential oils boosted previously depressed cash-crop production . . . Agriculture stagnated, however, and per capita food production in real terms continued to decline.”).

⁴⁶ Monika Kalra Varma et al., *Wòch nan soley: The Denial of the Right to Water in Haiti*, HEALTH AND HUM. RTS. J. (Dec. 2008), <https://www.hhrjournal.org/2013/09/woch-nan-soley-the-denial-of-the-right-to-water-in-haiti/> (“Throughout this period — then two years after implementation should have begun — not a single [Inter-American Development Bank] member state spoke out publicly about the US government’s violation of the Bank’s charter. In private meetings in 2003, certain member states acknowledged that the US government’s actions were inappropriate but felt that the US government’s power within the Bank prevented them from taking public action.”).

⁴⁷ See IMF, *Press Release: IMF Approves Stand-by Credit for Haiti*, (Mar. 8, 1995), <https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr9514>; see also McKenzie Kelly, *In Dependence: Haiti in the Period of Neoliberalism*, 11 HISTORY IN THE MAKING 63, 71 (2018); ECONOMIC MEMORANDUM ON HAITI ii (WBG 1982) <https://documents1.worldbank.org/curated/en/651071468274736652/pdf/multi0page.pdf>; Rachael Bunyan, *25 Years After ‘Operation Uphold Democracy,’ Experts Say the Oft-Forgotten U.S. Military Intervention Still Shapes Life in Haiti*, TIME MAG. (Sept. 24, 2019), <https://time.com/5682135/haiti-military-anniversary>; see also *1995 Country Reports on Economic Policy and Trade Practices*, U.S. DEP’T OF STATE, (May 1996), https://1997-2001.state.gov/issues/economic/trade_reports/latin_america95/haiti.html.

movement – known as *Lavalas*, or “the avalanche” – forced out Jean-Claude Duvalier, who fled to a gilded and protected exile in France. After a series of aborted democratic openings, Haitians elected Jean-Bertrand Aristide, the first president elected through fair, national elections, in 1990 by overwhelming numbers. When Aristide attempted to implement the policies Haitians had voted for – including increased government services, especially education and healthcare – Haitian elites, with the support of the United States and other powerful countries, overthrew Aristide in a September 1991 military coup d’état.⁴⁸

The Independence Debt is estimated to have cost Haiti at least \$21 billion USD, and possibly up to \$115 billion, in economic growth.⁴⁹ At the same time that Haiti was making regular large payments to France to service the coerced debt and Haitian farmers were living on the brink of starvation, France was building hospitals, schools, the Eiffel Tower, and the foundations of what is now one of the biggest economies in the world.⁵⁰

⁴⁸ See ROBINSON, *supra* note 4, at 145 (“From the start [of the Aristide presidency], the United States, France, the European Union, the Haitian bourgeoisie, the macoutes, FRAPH, Convergence, and the American-armed rebels employed every imaginable tactic to violently defeat the new democracy’s overarching goal.”). See also Jim Mann, *Congress to Probe CIA-Haiti Ties : Intelligence: Members of Both Houses Say They will Investigate. Reports Say Agency Financed Some Leaders Involved in Coup*, L.A. TIMES (Nov. 2, 1993), 12:00 AM), <https://www.latimes.com/archives/la-xpm-1993-11-02-mn-52438-story.html>; Alison Roseberry-Polier, *Haitians Overthrow Regime, 1984-1986*, GLOB. NONVIOLENT ACTION DATABASE (Apr. 24, 2011), <https://nvdatabase.swarthmore.edu/content/haitians-overthrow-regime-1984-1986>; Kim Willsher, *Jean-Claude Duvalier’s turbulent years in exile*, THE GUARDIAN (Jan. 17, 2011, 11:24 AM), <https://www.theguardian.com/world/2011/jan/17/jean-claude-duvalier-baby-doc>; *Haiti: Parliamentary Chamber: Asemblée nationale*, INTER-PARLIAMENTARY UNION, [http://archive.ipu.org/parline-e/reports/arc/2137_90](http://archive.ipu.org/parline-e/reports/arc/2137_90.htm).htm (last visited Nov. 4, 2023).

⁴⁹ See Gamio, *supra* note 14.

⁵⁰ See Matt Apuzzo et al., *The Ransom: How a French Bank Captured Haiti*, N.Y. TIMES (May 20, 2022), <https://www.nytimes.com/2022/05/20/world/french-banks-haiti-cic.html>; see also Constant Méheut et al., *The Ransom: Demanding Reparations and Ending Up in Exile*, N.Y. TIMES (May 20, 2022), <https://www.nytimes.com/2022/05/20/world/americas/haiti-aristide-reparations-france.html>. See generally Panel II: Legal Claims & Economic Remedies at the Inter-American Law Review Symposium: Haiti: Reparations & Restitution (Mar. 24, 2023), <https://echo360.org/media/df600a1f-2144-4ba5-a9b1-17f2b4694c5b/public> [hereinafter Symposium II].

The coercion at the root of the Independence Debt and its consequences offers Haiti a distinct path towards reparation of this specific harm: through restitution based on a theory of unjust enrichment.⁵¹ The theory of unjust enrichment can be traced back to 1760.⁵² In this context, the theory rests on the understanding that the Independence Debt was illegal even under contemporary international law because it was extorted under a credible threat of re-enslavement by the French.⁵³ Contemporary legal principles also recognized that remedies would include the cost of any resulting harms, such as the billions of dollars in Haiti's lost economic growth.⁵⁴

III. CLAIM FOR JUSTICE

In 2003, Haiti's President Aristide, after being elected a second time in 2000, initiated proceedings to pursue restitution under the unjust enrichment theory.⁵⁵ The strength of Haiti's legal and, perhaps just as importantly, moral argument is evidenced by the reaction it triggered: a coordinated international effort to remove the government pursuing the claim.⁵⁶

⁵¹ See Anthony D. Phillips, *Haiti's Independence Debt and Prospects for Restitution*, INST. FOR JUST. AND DEMOCRACY IN HAITI, http://www.ijdh.org/wp-content/uploads/2009/11/Haiti_RestitutionClaimArticlePhilipps05-09.pdf (last visited Nov. 4, 2023).

⁵² *Moses v. Macferlan*, (1760) 97 Eng. Rep. 676, 680 (K.B.).

⁵³ See Symposium, *supra* note 31; see also Joseph, *supra* note 12; Daut, *supra* note 30; Phillips, *supra* note 51; ROBINSON, *supra* note 4, at 20–21 (“In 1825, twenty-two years after L’Ouverture’s death, the Haitian army was no longer the feared fighting force it had once been . . . [F]orcing slaves who had won their freedom to compensate their former masters for their lost property was recognized, even in the 19th century, as a violation of human rights and international laws. By the time of the 1825 Ordinance [the Independence Debt], the international slave trade had been abolished and the reintroduction of slavery into free territories forbidden by the Second Treaty of Paris and the Congress of Vienna — both of which France had signed in 1815.”).

⁵⁴ See Symposium II, *supra* note 50; see also Phillips, *supra* note 51.

⁵⁵ U.S.-based lawyers Ira Kurzban and Günther Handl assisted President Aristide with the restitution claim. Daut, *supra* note 34.

⁵⁶ See Méheut, *supra* note 50; ROBINSON, *supra* note 4, at 57, 59 (describing the French foreign minister at the time sending a message to “democratically elected president [Aristide], that it was time for him to step down” one month after he had convened a conference of experts to “discuss Haiti’s restitution claim against France for repayment of the debt.”); *id.* at 63 (“When the thugs who’d been

The amount of money Haiti claimed for restitution in 2003 – nearly \$22 billion USD⁵⁷ (although subsequent analysis suggests it could claim far more) – was far from a serious economic threat to France. The amount represented just over 1 percent of France’s gross domestic product that year.⁵⁸ Still, Haiti’s 2003 restitution claim posed a threat of a different kind, both to France and to the other nations that still retained the global hegemony they had built on slavery. These powerful nations knew that other countries and peoples that had suffered from slavery, upon seeing Haitians succeed in winning restitution, would demand, and win, their own reparations. They also knew that providing reparations to Haiti and to other deserving countries could lead to political sovereignty and human and economic development in those countries that would undermine the unequal global world order that still rests on the foundation of colonialism, enslavement, and white supremacy.⁵⁹

The powerful countries once again took persistent and coordinated action to prevent Haiti from succeeding. France, in particular, saw the restitution claim as a challenge to its version of history and its “national identity as a beacon of human rights.”⁶⁰ These powerful countries boycotted Haiti’s January 1, 2004 independence bicentennial celebration,⁶¹ and coerced Black countries throughout the world

collaborating with Haiti’s wealthy class finally entered Port-au-Prince in the days following the president’s mysterious disappearance, they destroyed first off the Museum of the Restitution.”); *id.* at 254 (“In an early act of office, Latortue rescinded the application made the year before by the deposed democratic Haitian government for restitution from France.”) *See also* Mario Joseph et. al, *France Demanded Crippling Payments. Now Haiti has a Legitimate Claim for Slavery Reparations*, MIAMI HERALD (Mar. 27, 2023) <https://www.miamiherald.com/opinion/op-ed/article273642735.html> [*hereinafter* France Demanded]; Symposium, *supra* note 31.

⁵⁷ Farmer, *supra* note 5.

⁵⁸ *France GDP 1960-2023*, MACROTRENDS, <https://www.macrotrends.net/countries/FRA/france/gdp-gross-domestic-product> (last visited Oct. 8, 2023).

⁵⁹ In *An Unbroken Agony*, Randall Robinson extensively explores the perceived threat Haiti’s democracy and self-determination posed to wealthy white nations who maintained associated financial interests in Haiti, as evidenced by repeated economic and military interference by those nations against Haiti historically and in the modern day. *See generally* ROBINSON, *supra* note 4.

⁶⁰ *See* Méheut, *supra* note 50.

⁶¹ *See* Lydia Polgreen, *200 Years After Napoleon, Haiti Finds Little to Celebrate*, N.Y. TIMES (Jan. 2, 2004), <https://www.nytimes.com/2004/01/02/world/200-years-after-napoleon-haiti-finds-little-to-celebrate.html>. The only foreign

to not send a head of state to this commemoration of the first emancipation.⁶²

As in 1804, in 2000, the international community imposed an embargo on Aristide's Haiti.⁶³ Using the pretext of largely unfounded claims of minor election irregularities,⁶⁴ the United States led a devastating development assistance embargo that deprived the Haitian government of support from the United States and European Union countries, as well as from international financial institutions, such as the Inter-American Development Bank, the World Bank, and the International Monetary Fund, upon which Haiti had become dependent.⁶⁵ The embargo had a number of serious consequences for Haiti that destabilized its democratic government, such as forcing it to limit critical social spending – including spending on security, health, and education.⁶⁶ While clean water projects, hospitals, and schools were starved of financing, the international community did generously support the elite-led opposition.⁶⁷

ministers to attend the celebration were Thabo Mbeki of South Africa and Perry Christie of the Bahamas.

⁶² See HALLWARD, *supra* note 5, at 358 n.64; see also Stotzky & Concannon, Jr., *supra* note 10; *Foreign Relations*, *supra* note 45.

⁶³ Farmer, *supra* note 5.

⁶⁴ See HALLWARD, *supra* note 5, at 76–81.

⁶⁵ See Varma, *supra* note 47 (describing how the United States blocked the disbursement of loans from the Inter-American Development Bank intended to improve access to water in Haiti); see also Mark Weisbrot, *Undermining Haiti*, THE NATION (Nov. 23, 2005), <https://www.thenation.com/article/archive/undermining-haiti/>; *Sept. News Brief*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/pdf/newsbriefsept26-oct11-06.pdf> (last visited Nov. 4, 2023).

⁶⁶ See generally Varma, *supra* note 46 (“The continual debt payments leave the Haitian government incapable of supporting the social infrastructure necessary to meet basic needs, including health facilities, water and sanitation systems, and education, with serious consequences to the health and human rights of all Haitians.”)

⁶⁷ See Farmer, *supra* note 5; see also ROBINSON, *supra* note 4, at 54 (“[T]he Bush administration took measures of dubious legality to block four loans of \$146 million that had been fully approved by the Inter-American Development Bank (IDB) in 1998.”); *id.* at 101, 122, 144, 146, 153-55; Weisbrot, *supra* note 65 (“The US Agency for International Development and the International Republican Institute . . . had spent tens of millions of dollars to create and organize an opposition — however small in numbers — and to make Haiti under Aristide ungovernable Washington had an added weapon against the Haitian government. Taking advantage of Haiti’s desperate poverty and dependence on foreign aid, it

When the former slave-owning powers' political and economic coercion did not stop Haiti from pursuing its restitution claim, France, the United States, and Canada acted to remove Aristide from office.⁶⁸ Former soldiers openly training in the Dominican Republic swept across the border, taking many cities from Haiti's depleted police forces.⁶⁹ The UN Security Council refused to respond to a request from the Caribbean community to send peacekeepers to protect the elected government.⁷⁰ Additionally, Canadian troops took over the main airport in Port-au-Prince.⁷¹

On February 29, 2004, Aristide was forced onto a U.S. government plane at a Haitian airport.⁷² The U.S. plane, flying out of Guantanamo Bay, Cuba with a false flight plan, diverted from its usual activities of transferring prisoners and deposited President Aristide and his wife in Bangui, Central African Republic, at an airport

stopped international aid to the government, from the summer of 2000 until the 2004 coup . . . [T]he World Bank also contributed to the destabilization effort by cutting off funding.”).

⁶⁸ See Farmer, *supra* note 5; see also ROBINSON, *supra* note 4, at 53 (“Over the course of 2003 . . . in addition to arming the Duvalierist insurgents and organizing Haiti’s tiny, splintered political opposition, the [Bush] administration moved apace to strangle Haiti, the poorest country in the Western Hemisphere, into a state of economic, social, and political collapse.”); *id.* at 18–19, 48–49.

⁶⁹ See Resource Information Center, *Haiti: Information on the Armed Revolt*, REFWORLD (Mar. 4, 2004), <https://www.refworld.org/docid/414ef27d4.html>. Cf. Mike Smith, *Canada’s Quiet War*, NOW TORONTO (July 21, 2005), <https://web.archive.org/web/20110605045934/http://www.nowtoronto.com/news/story.cfm?content=148518&archive=24,47,2005>.

⁷⁰ See generally CARICOM, *Haiti Appeal to Security Council for Help as Security Worsens*, U.N. NEWS (Feb. 26, 2004), <https://news.un.org/en/story/2004/02/95452> (outlining various appeals for the UN to act). Cf. *Minustah Fact Sheet: United Nations Stabilization Mission in Haiti*, U.N. PEACEKEEPING, <https://peacekeeping.un.org/en/mission/minustah> (noting that the UN decided to send in a peacekeeping force only after Aristide was removed from office and the reparations claim was dropped).

⁷¹ Lydia Polgreen & Tim Weiner, *Haiti’s President Forced Out; Marines Sent to Keep Order*, N.Y. TIMES (Feb. 29, 2004), <https://www.nytimes.com/2004/02/29/international/americas/haitis-president-forced-out-marines-sent-to-keep.html>.

⁷² See *Aristide says U.S. deposed him in ‘coup d’etat’*, CNN (Mar. 1, 2004, 10:13 PM), <https://www.cnn.com/2004/WORLD/americas/03/01/aristide.claim/>; Farmer, *supra* note 5.

controlled by French troops.⁷³ The former French ambassador to Haiti later acknowledged that Aristide's overthrow was, at least in part, a response to the president's efforts to seek reparations.⁷⁴

Haiti's elected president was replaced by a prime minister flown in from Boca Raton, Florida.⁷⁵ In the subsequent nineteen years, Haiti's governments presided over a dismantling of the country's democratic institutions, leading to Haiti's current acute crisis.⁷⁶ In

⁷³ See *Aristide Arrives in Central African Republic After Fleeing Haiti*, HAARETZ (Mar. 1, 2004), <https://www.haaretz.com/2004-03-01/ty-article/aristide-arrives-in-central-african-republic-after-fleeing-haiti/0000017f-dbd7-df9c-a17f-ffdfe2ac0000>; see also ROBINSON, *supra* note 4, at 204 (Aristide's assertion at the time was that "[i]t was a coup," with U.S. soldiers forcing him from his residence); *id.* at 105, 205, 230–31, 237 (describing contemporaneous accounts). Cf. Farmer, *supra* note 5.

⁷⁴ See *Ex-Ambassador Admits France & U.S. Orchestrated 2004 Coup in Haiti to Oust Aristide*, DEMOCRACY NOW! (May 23, 2022), https://www.democracynow.org/2022/5/23/headlines/ex_ambassador_admits_france_us_orchestrated_2004_coup_in_haiti_to_oust_aristide; see also Yves Engler, *New York Times Admits Truth of Haitian Coup*, COUNTERPUNCH (June 2, 2022), <https://www.counterpunch.org/2022/06/02/new-york-times-admits-truth-of-haitian-coup/>; Méheut, *supra* note 50.

⁷⁵ See Lydia Polgreen, *A Premier Is Picked in Haiti; Marines to Disarm Militants*, N.Y. TIMES (Mar. 10, 2004), <https://www.nytimes.com/2004/03/10/world/a-premier-is-picked-in-haiti-marines-to-disarm-militants.html>.

⁷⁶ For a discussion of the crisis in Haiti, see *Human Rights and the Rule of Law in Haiti: Key Recent Developments December 2022 through May 2023*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/wp-content/uploads/2023/06/HRU-June-2023-FINAL.pdf> (last visited Nov. 5, 2023) [hereinafter *Haiti Developments December 2022 – May 2023*]; *Human Rights and the Rule of Law in Haiti: Key Recent Developments June through November 2022*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/wp-content/uploads/2022/12/HRU-December-2022-FINAL.pdf> (last visited Nov. 5, 2023); *Human Rights and the Rule of Law in Haiti: Key Recent Developments December 2021 through May 2022*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/wp-content/uploads/2022/06/IJDH-Human-Rights-Update-June-2022.pdf> (last visited Nov. 5, 2023); *Human Rights and the Rule of Law in Haiti: Key Recent Developments June through November 2021*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/wp-content/uploads/2021/12/IJDH-Human-Rights-Update-November-2021.pdf> (Nov. 5, 2023) [hereinafter *Haiti Developments June – November 2021*]; *Human Rights and Rule of Law in Haiti: Key Recent Developments March to October 2020*, INST. FOR JUST. AND DEMOCRACY IN HAITI, <http://www.ijdh.org/wp-content/uploads/2020/11/Update-on-Human-Rights-and-Rule-of-Law-Situation-Mar-Oct-2020-FINAL.pdf> (Nov. 5, 2023); *Human Rights and Rule of Law in Haiti: Key Recent Developments February 2020*, INST. FOR JUST. AND

nearly two decades, no Haitian government has asserted Haiti's restitution claim—and each one has received generous international support.⁷⁷

IV. INTERNATIONAL INTERFERENCE IN HAITI'S DEMOCRACY, A BARRIER TO RESTITUTION

The response of powerful countries to Haitians asserting their freedom in 1804 and enforcing their legal rights in 2003 had a common aim: to keep Haiti poor, unstable, and unable to challenge the white supremacist international order.⁷⁸ In both cases, the powerful countries imposed the control and exploitation of the slavery-based colonial system through means acceptable in contemporary society. Through the imposition of the Independence Debt, France laid the

DEMOCRACY IN HAITI, http://ijdh.org/wp-content/uploads/2020/02/Update-on-Human-Rights-and-Rule-of-Law-Situation_Feb-19-2020.pdf (Nov. 5, 2023); *Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti's Political Crisis*, INST. FOR JUST. AND DEMOCRACY IN HAITI (May 2019), <http://www.ijdh.org/wp-content/uploads/2021/12/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf>.

⁷⁷ See RECONSTRUCTING DEMOCRACY: JOINT REPORT OF INDEPENDENT ELECTORAL MONITORS OF HAITI'S NOVEMBER 28, 2010 ELECTION, INST. FOR JUST. AND DEMOCRACY IN HAITI (Globe Newspaper Co. 2010), <https://www.ijdh.org/wp-content/uploads/2021/10/Haiti-Joint-Observer-Report-FINAL.pdf>. See also Jake Johnston, *Revealed: USAID Funded Group Supporting Haitian President in 2011*, ALJAZEERA AM. (July 15, 2015, 5:00 AM), <http://america.aljazeera.com/articles/2015/7/15/usaid-funded-group-supporting-haitian-president.html> (the United States directly supported the election of President Michel Martelly (2011-2016) despite widespread reports of election interference, disenfranchisement, and the illegitimacy of the electoral mechanism); Hannah Durkin, *A New Government in Haiti, but Foreign Interest Still Rules*, THE CONVERSATION (Jan. 19, 2015, 11:41 AM), <https://theconversation.com/a-new-government-in-haiti-but-foreign-interest-still-rules-36319> (describing continued U.S. support for President Martelly even after he dissolved the Haitian Parliament, leaving him “to rule by decree”); *Haiti Developments June – November 2021*, *supra* note 76 (describing continued U.S. support for President Jovenel Moïse (2017-2021) despite his increasingly authoritarian policies and a terrible human rights record); *Haiti Developments December 2022 – May 2023*, *supra* note 76 (the United States, after effectively installing Ariel Henry as prime minister following President Moïse's assassination in July 2021, has persisted in its support for this *de facto* Prime Minister Henry, whose illegitimate government is ultimately responsible for Haiti's current insecurity and humanitarian crises).

⁷⁸ See ROBINSON, *supra* note 4, at 3–6, 8, 10–11, 14, 28, 31, 49, 57, 60, 66, 68–70; *cf.* THE DEBT, *supra* note 19, at 186–87.

foundation for further persistent interference with Haiti's sovereignty and development⁷⁹ – including nineteen years of brutal U.S. occupation,⁸⁰ decades of economically devastating “development” loans,⁸¹ the overthrow of Haiti's elected government in 2004,⁸² and, most recently, the propping up of Haiti's corrupt, repressive *de facto* regime.⁸³

Against this backdrop, Haiti's 2003 demand for restitution was the perfectly expected result of democracy. Aristide and his *Fanmi Lavalas* party had campaigned for elections in 2000 on a platform of asserting Haiti's independence and improving the government's delivery of basic government services. The voters endorsed the platform by handing Aristide the presidency and *Fanmi Lavalas* a majority in both houses of Parliament. Calling for restitution kept the campaign promises by exercising a promising legal claim that could have led to the government being in a position to deliver the services and economic development that had been frustrated for two centuries. The unprecedented restitution claim – much like the unprecedented election of a government willing to assert this claim – was not just an exercise in accountability, but also Black people's deliberate effort to advance democratic self-determination.

⁷⁹ See Wisner, *supra* note 12, at 185.

⁸⁰ See ROBINSON, *supra* note 4, at 22, 165.

⁸¹ See, e.g., Wisner, *supra* note 12, at 189, n.29; see also Sandra C. Wisner, *Starved for Justice: International Complicity in Systemic Violations of the Right to Food in Haiti*, COL. HUM. RTS. L. REV. 411, 432, 439 (2022); Billy Perrigo, *Haiti Gives the IMF a Fresh Lesson in the Value of Subsidies to the Poor*, TIME (July 19, 2018), <https://time.com/5342745/imf-haiti-protests/>; Jacqueline Charles, *Haiti's Low Fuel Prices Unfairly Benefit the Rich and Need to be Raised*, IMF SAYS, MIAMI HERALD, (July 13, 2018), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article214722915.html>.

⁸² See Farmer, *supra* note 5; See generally ROBINSON, *supra* note 4, at chs. 43, 47.

⁸³ See *Haiti Developments December 2022 – May 2023*, *supra* note 76; see also *Urgent Civil Society Appeal for a Rights-Based International Response to the Crisis in Haiti*, INST. FOR JUST. AND DEMOCRACY IN HAITI (June 12, 2023), <http://www.ijdh.org/wp-content/uploads/2023/06/12062023-Haiti-Civil-Society-Declaration-ENG-version.pdf> (“An essential first step is to **stop propping up** the set of actors who created the crises facing the country, including those currently in power.”) (emphasis in original).

Former slave-owning powers' backlash toward Haiti's restitution claim and sovereignty was predictable.⁸⁴ As in 1803, Haitians were made an example of. Armed gangs, policemen, UN soldiers, and anti-democracy groups attacked poor neighborhoods known to support President Aristide.⁸⁵ One study concluded that in the two years after the coup, 8,000 Haitians were killed and 35,000 women and girls were raped.⁸⁶

The 2004 coup ushered in a steady erosion of Haiti's democracy through a series of governments supported by the international community.⁸⁷ One of the first actions of the new unconstitutional head of Haiti's government—just weeks after the international community removed Aristide from power—was to publicly abandon Haiti's restitution claim.⁸⁸ Not a single one of the Haitian governments that

⁸⁴ In 2000, Aristide and his party, *Fanmi Lavalas*, were elected in a landslide, with Aristide receiving 90 percent of the presidential vote and his party receiving 75 percent of the vote. Aristide won on a pro-poor platform. Aristide's platform, designed to narrow the wide socioeconomic gap in Haiti, angered the U.S. and European governments and the Haitian bourgeoisie, who sought to quash popular support for Aristide and maintain their supremacy in Haiti. See ROBINSON, *supra* note 4, at 145, 193–95, 235, 257 (“Between February 29, 2004, the day of the abduction, and May 14, 2006, the day of President Rene Prével’s inauguration, an estimated four thousand Haitian men, women, and children were killed by the American-armed thugs, the interim government’s national police force, as well as by American, French, Canadian, and United Nations troops.”).

⁸⁵ See Benjamin Terrall, *UN’s Deadly Legacy in Haiti ‘Peacekeepers’*, GLOB. POL’Y F. (Feb. 7, 2007), <https://archive.globalpolicy.org/security/issues/haiti/2007/0207deadly.htm>.

⁸⁶ *Shocking Lancet Study: 8,000 Murders, 35,000 Rapes and Sexual Assaults in Haiti During U.S.-Backed Coup Regime After Aristide Ouster*, DEMOCRACY NOW! (Aug. 31, 2006), https://www.democracynow.org/2006/8/31/shocking_lancet_study_8_000_murders.

⁸⁷ See Ben Gutman, *A Brutal History of Foreign Meddling in Haiti is Responsible for its Ongoing Crisis*, INTER. AFF. REV. (Aug 24, 2021), <https://www.iar-gwu.org/blog/iar-web/a-brutal-history>; ROBINSON, *supra* note 4, at 111 (“[T]he United States and the powerful Haitian insurrectionists . . . wished only to crush the reform-minded government of a democratically elected president, and, with him, all hope in the years ahead for constitutional democracy in Haiti . . . [T]he ensuing hellish, bloody turmoil associated with its lawless interposition seemed . . . a fully intended outcome of the overall American strategy.”). See also *id.* at 60, 145–146, 235.

⁸⁸ See *Haiti Drops Reparations Claim*, BBC CARIBBEAN (Apr. 2004), <https://www.bbc.co.uk/caribbean/news/story/>

followed demanded restitution for Haiti, and all have implemented pro-Western policies that often benefit the United States and its powerful allies more than the Haitian people.⁸⁹

Once again, the international community supported Haitian elites as they repressed the majority of Haitians. These external governments systematically dismantled Haiti's democratic structures, extracted Haiti's resources for their own personal gain, and colluded with gangs to subjugate the population.⁹⁰ The U.S.-backed corrupt, repressive government run by *de facto* Prime Minister Ariel Henry is the latest iteration of this neocolonialist pattern which dates back to when Haitians first claimed their freedom.⁹¹ As of June 2023, gangs control over half the country, half of all Haitians suffer from hunger, and the country lacks a single elected official.⁹²

While most of Haiti's governments since 2004 have served the international community, civil society has kept the fight for Haitian self-determination alive. Haitians have been taking to the streets, news outlets, and international fora to protest continued international support for the *Pati Ayisyen Tèt Kale* (PHTK), which has

2004/04/printable/040419_haiti-reparations.shtml; see also ROBINSON, *supra* note 4, at 254.

⁸⁹ See *Haiti: Developments and U.S. Policy Since 1991 and Current Congressional Concerns*, EVERY CRS REPORT, https://www.everycrsreport.com/reports/RL32294.html#_Toc204522211 (last visited Nov. 5, 2023). One example of pro-Western activities by the Haitian government include legislation drafted by President Michel Martelly's government that supported the creation of U.S.-friendly mining legislation. See Trenton Daniel, *Haiti's New PM: Mining Laws Being Drafted*, YAHOO FIN. (May 15, 2012), <https://finance.yahoo.com/news/haitis-pm-mining-laws-being-233348954.html>. For another example, see *Hait — FLASH: Haiti Votes Against the Legitimacy of the Regime of President Nicolas Maduro*, HAITI LIBRE (Nov. 1, 2019, 7:16 AM), <https://www.haitilibre.com/en/news-26627-haiti-flash-haiti-votes-against-the-legitimacy-of-the-regime-of-president-nicolas-maduro.html>.

⁹⁰ See generally *France demanded, supra* note 56; Cf. Jacqueline Charles, *Haiti Corruption Scandal: Billions Wasted in Venezuelan PetroCaribe Aid, New Report Shows*, MIAMI HERALD (Aug. 19, 2020, 4:28 PM), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245045015.html>.

⁹¹ See Rafael Bernal, *More Than 100 Groups Call on Biden to Drop Support for Haitian Prime Minister*, THE HILL (Sep. 16, 2022, 7:16 PM), <https://thehill.com/latino/3647076-more-than-100-groups-call-on-biden-to-drop-support-for-haitian-prime-minister/>.

⁹² *Haiti Developments December 2022 – May 2023, supra* note 76.

ruled Haiti for most of the last dozen years.⁹³ They are organizing for and proposing Haitian-led, broad-based transitional solutions that would create a path towards the restoration of democracy,⁹⁴ which would lead to initiatives to assert Haitian self-determination and renewed reparations claims – exactly what the United States, France, and others have been fighting against since 1804.

V. REPARATIONS FOR HAITI AND BEYOND: MOBILIZING IN SOLIDARITY

Haiti's emancipation in 1804 and subsequent struggle for self-determination and justice are central to and emblematic of the centuries-long fight for Black liberation, dignity, and reparatory justice. The last thirty years, in particular, have seen a flourishing of global mobilization to redress, rectify, and heal the lasting consequences of the harms suffered not only from enslavement and trade, but also the resulting institutions and white supremacy built up to maintain power and inequality.⁹⁵ Haiti's example clearly demonstrates that dismantling those systems is necessary for true repair and the meaningful possibility of seeking reparations.

Haiti's importance in the broader fight for reparations and Black self-determination is often acknowledged in reparations discussions. For example, many speakers from many countries at the UN Permanent Forum on People of African Descent's (UNPFPAD) inaugural session in December 2022 in Geneva addressed Haiti's history and

⁹³ *Id.*

⁹⁴ See Monique Clesca, *Haiti's Fight for Democracy*, FOREIGN AFF. (Feb. 1, 2022), <https://www.foreignaffairs.com/articles/haiti/2022-02-01/haitis-fight-democracy>.

⁹⁵ For example, in late July 2023, the Caribbean Community (CARICOM), of which Haiti is a member, and the African Union announced, after a series of talks, that they would formulate a framework for cooperation and collaboration in advocacy and campaigning for reparations on a global level. The harms contemplated as part of this envisioned framework are broad and include those related to slavery, anti-Black racism, climate injustice, and the erasure of culture and language, among others. See *Ground-Breaking Study Tour on Reparations and Racial Healing in Bridgetown, Barbados*, U. OF W. INDIES (July 24, 2023), <https://www.open.uwi.edu/media/news/ground-breaking-study-tour-reparations-and-racial-healing-bridgetown-barbados>.

its restitution claim,⁹⁶ as did speakers at the second meeting in May 2023 in New York, to both the main assembly and a side event on the Caribbean.⁹⁷ A claim against France seeking an apology and monetary compensation for Haiti was part of CARICOM's 2013 planning.⁹⁸ Speakers at the 2023 State of the Black World Conference V from Jamaica, Barbados, and other Caribbean nations emphasized Haiti's importance in the region, together with its long history of anti-slavery and anti-imperialism.⁹⁹

Haiti's government, however, did not join the chorus of people calling for a massive transfer of resources to the country. So many

⁹⁶ See *1st Meeting, 1st Session of the Permanent Forum on People of African Descent*, U.N. HUM. RTS. COUNCIL (Dec. 5, 2022), <https://media.un.org/en/asset/k18/k183mmjcy> [hereinafter *1st Meeting*]; see also Verene A. Shepherd, Chair, Comm. on the Elimination of Racial Discrimination, Presentation on "The Sustainable Development Goals and Reparatory Justice" at Day Two of PFPAD (Dec. 6, 2022), "We all know, e.g., that Ayiti had to pay reparation to France in order to secure its independence from a brutal and atrocious slavery regime imposed by France; that Haiti's underdevelopment is attributable to that reparation tax and that debt must be repaid by France. Constant Méheut and Matt Apuzzo revealed publicly in the *New York Times* that a more precise price tag for the double debt (these payments, and a loan from a French bank to cover them) was 112 million francs, or about \$560 million USD today.").

⁹⁷ See *(2nd meeting) 2nd Session of the Permanent Forum on People of African Descent - Thematic Discussion: Global Reparatory Justice*, U.N. OHCHR (May 30, 2023), <https://media.un.org/en/asset/k13/k138maltc5>; see also DaQuan Lawrence, *Cameroonian Pioneer Continues Human Rights Work at United Nations*, THE HILLTOP (June 16, 2023), <https://thehilltoponline.com/2023/06/16/cameroonian-pioneer-continues-human-rights-work-at-united-nations/> ("In an amazing sequence, members of the African diaspora repeatedly called for global reparations for underdeveloped states such as Haiti and other nations in the Caribbean and Africa.").

⁹⁸ See Dexter Mullins, *14 Caribbean Nations Sue European Countries for Slavery Reparations*, ALJAZEERA AM. (Sep. 27, 2023, 7:42 PM), <http://america.aljazeera.com/articles/2013/9/27/14-caribbean-nations-sue-european-countries-for-reparation-over-slavery.html>; see also *Communique Issued at the Conclusion of the First Regional Conference on Reparations Kingstown, St. Vincent and the Grenadines 15-17 September, 2013*, CARICOM CARIBBEAN CMTY (Sep. 24, 2013), <https://caricom.org/communique-issued-at-the-conclusion-of-the-first-regional-conference-on-reparations-kingstown-st-vincent-and-the-grenadines-15-17-september-2013/>.

⁹⁹ See Bill Fletcher, Jr., *Hearing the Tree Fall: The State of the Black World Conference, the Montana Accord, and the Future of Haiti*, INST. OF BLACK WORLD 21ST CENTURY (May 25, 2023), <https://ibw21.org/news/initiative-posts/sobwc-posts/sobwcv-montana-accord-future-of-haiti/>.

speakers mentioned Haiti at the first UNPFAD session¹⁰⁰ that the organizers provided the *de facto* government with a valued five-minute time slot to respond. The government managed to use the full time allotted without mentioning the restitution claim once.¹⁰¹ In the May 2023 second session, the government declined to even attend the Thematic Discussion on Reparatory Justice.

As long as Haitian governments are more accountable to former slave-owning powers than they are to the Haitian people, Haiti will never be able to contribute to the reparations movement via its restitution claim. This challenge makes global solidarity around Haitians' fight to reclaim their democracy essential. It also makes Haiti's involvement in the broader reparations movement equally essential. Although Haiti has a legal claim that could technically be asserted without regard to the broader context, there is no chance that Haiti will be allowed to assert its claim without the support of the broader reparations community.

There are many ways that people who care about reparatory justice can help Haiti. *First*, Haiti's claims can be better integrated into the global reparations movement as a means of advancing both the broader movement and Haiti's individual claim. Since Haiti's government will not assert the claims, leaders within Haiti's civil society who are knowledgeable about Haiti's claim should be systematically included in all discussions. Involving more Haitian voices in the global reparations movement will require active efforts towards meaningful inclusion. Haitians are often marginalized by virtue of language, geography, impoverishment, and inability to obtain visas to enter or remain in former slave-owning countries.¹⁰² However,

¹⁰⁰ See Carol Ann Dixon, Ph.D., *Summative Report on the United Nations 1st Permanent Forum of People of African Descent, Geneva, 5-8 December 2022*, DECOLONIAL DIALOGUES (Dec. 12, 2022), <https://decolonialdialogue.wordpress.com/2022/12/22/summative-report-on-the-united-nations-1st-permanent-forum-of-people-of-african-descent-geneva-5-8-december-2022/>; see also

Preliminary Conclusions and Recommendations: UN Permanent Forum on People of African Descent (PFAD) First Session, 5-8 December 2022, Geneva, Switzerland, U.N. OHCHR, <https://www.ohchr.org/sites/default/files/documents/issues/racism/forum-people-african-descent/1st-session/PFPAD-1st-session-Preliminary-Conclusions-and-Recommendations.pdf>.

¹⁰¹ *1st Meeting*, *supra* note 96.

¹⁰² See, e.g., Manoucheka Celeste, *Disturbing Media Images of Haiti Earthquake Aftermath Tells Only Part of the Story*, SEATTLE TIMES (Jan. 26, 2010, 4:40 PM), <https://www.seattletimes.com/opinion/disturbing-media-images-of-haiti->

there are Haitian voices willing and able to address international audiences.¹⁰³ Additionally, the growing use of video conferencing technology and language justice-based simultaneous translation¹⁰⁴ can help overcome many of the traditional obstacles.

Second, international solidarity can help Haiti restore the democracy and sovereignty it needs to be able to assert its restitution claim. Haitians have been working toward a consensus solution to the current governance crisis – one that will pave the way for a democratic transition and a leader accountable to the Haitian people¹⁰⁵ – but their progress has been blocked by persistent international support for corrupt, illegitimate governments.¹⁰⁶ Haitians will keep

earthquake-aftermath-tell-only-part-of-the-story/; Tom Breen, *Media Portrayal of Haiti Problematic, Says UConn Researcher*, UCONN TODAY (Jan. 11, 2013), <https://today.uconn.edu/2013/01/media-portrayal-of-haiti-problematic-says-uconn-researcher/>; Christine Jean-Baptiste, *'Troubled,' 'Impoverished,' 'Lawless': How Media Stereotypes Continue to Dehumanize Haiti*, NBCU ACAD. (Jul. 29, 2021, 9:33 PM), <https://nbcuacademy.com/haiti-media-moise-stereotypes/>; Christine Jean-Baptiste, *Racist Stereotypes About Haiti in the Media Dehumanize Haitians*, TEENVOGUE (Mar. 18, 2021), <https://www.teenvogue.com/story/racist-stereotypes-haiti-media>. See also Alexandra Villarreal, *The US Asylum Rule Replacing Title 42 is Strict — Here's What We Know*, THE GUARDIAN (May 15, 2023, 6:00 AM), <https://www.theguardian.com/us-news/2023/may/15/explainer-strict-asylum-rules-replacing-title-42>; See also *As a Child in Haiti*, *supra* note 32.¹⁰³ See Mario Joseph, *The Government of Haiti Must be Returned to the People*, EL PAÍS (July 14, 2021, 7:51 PM), https://elpais.com/opinion/2021-07-14/se-debe-devolver-el-gobierno-de-haiti-al-pueblo.html?event_log=oklogin; see also Joseph, *supra* note 12; Closing Remarks at the Inter-American Law Review Symposium: Haiti: Reparations & Restitution (Mar. 24, 2023), <https://echo360.org/media/bba39fb1-51e6-4af5-a954-8b251eb88750/public>.

¹⁰⁴ See Laura Wagner, *Uplifting Haitian Voices Speaking Their Native Tongue: Respond Helps Bring Sexual Violence Advocacy to the Inter-American Commission on Human Rights*, RESPOND CRISIS TRANSLATION (June 13, 2023), <https://respondcrisistranslation.org/en/newsb/uplifting-haitian-voices-2023-0613>; see also *Update on the Work of our Haitian Kreyol Team*, RESPOND CRISIS TRANSLATION (Jan. 12, 2022), <https://respondcrisistranslation.org/en/newsb/haitian-kreyol-2022-0112>.

¹⁰⁵ See Monica Clesca, *Haitians Have a Solution to Haiti's Crisis*, THE DIALOGUE (Sep. 8, 2022), <https://www.thedialogue.org/analysis/haitians-have-a-solution-to-haitis-crisis/>.

¹⁰⁶ See *US Urges Polls in Haiti But Says President Can Stay Until 2022*, ALJAZEERA (Feb. 6, 2021), <https://www.aljazeera.com/news/2021/2/6/us-urges-elections-in-haiti-but-relents-on-presidents-term>; see also Natalie Kitroeff & Michael Crowley, *U.S. Habit of Backing Strongman Allies Fed Turmoil in Haiti*,

fighting, but they need supporters of reparations outside Haiti to insist that their own governments support democracy and sovereignty in Haiti. Barbados' Ambassador to CARICOM, David Comissiong, uplifted this message at the recent State of the Black World Conference V, emphasizing repeatedly that Haiti needs the support of the Caribbean and broader international community to restore Haitian-led democracy that will reinvigorate Haiti's reparations claims and work to dismantle the enduring harms underpinning those claims.¹⁰⁷

Third, Haiti has an important opportunity to better integrate its claim into the U.S. racial justice and reparations movements. The 2022 *New York Times* series pushed Haiti's story of independence, debt, and quest for reparations into popular consciousness in the United States.¹⁰⁸ Suddenly, many U.S. Americans who had little previous knowledge or understanding of Haiti's situation were outraged.¹⁰⁹ Their outrage reflected the blatant injustice of the Independence Debt, but also concern that this history is not better known. This deep and lasting harm that the U.S. government had a heavy hand in perpetrating has never been covered adequately in schools or in the mainstream press.¹¹⁰ Changing that dynamic is an

N.Y. TIMES (Sep. 14, 2021), <https://www.nytimes.com/2021/07/18/world/americas/haiti-united-states-jovenel-moise.html>.

¹⁰⁷ See David Comissiong, *CARICOM takes action on Haiti*, THE HABARI NETWORK, <https://www.ThehabariNetwork.com/caricom-takes-action-on-haiti> (last visited Nov. 20, 2023).

¹⁰⁸ See *Haiti 'Ransom' Project*, N.Y. TIMES, <https://www.nytimes.com/spotlight/haiti>; see also Rose N. Saint-Louis, *NYT 'Ransom' Piece, While Flawed, Did a Service to Haitians*, THE HAITIAN TIMES (June 9, 2022), <https://haitiantimes.com/2022/06/09/nyt-ransom-piece-while-flawed-did-a-service-to-haitians-tht-letters/>.

¹⁰⁹ See J.O. Haselhof, *NY Times Looks for New 'Haiti line' as Push Grows for Nuanced Narratives*, THE HAITIAN TIMES (June 21, 2022), <https://haitiantimes.com/2022/06/21/nyt-haitian-times-ransom-narrative/>; see generally *Haiti's Colonial Debt Burden Sparks Debate — but Official Silence*, FRANCE 24 (May 24, 2022, 6:52 PM), <https://www.france24.com/en/live-news/20220524-haiti-s-colonial-debt-burden-sparks-debate-but-official-silence>; see also Ali Rogin, *Hundreds of Years After Haiti Paid to be Free from Slavery the Costs are Still Being Felt*, PBS NEWS WEEKEND (May 21, 2022, 5:35 PM), <https://www.pbs.org/newshour/show/hundreds-of-years-after-haiti-paid-to-be-free-from-slavery-the-costs-are-still-being-felt>.

¹¹⁰ See Jack Shafer, *Why Historians Are at War with the New York Times*, POLITICO (May 23, 2022, 4:58 PM), <https://www.politico.com/news/magazine/2022/05/23/new-york-times-historian-haiti-authoritative-source-00034511>;

important step towards dismantling racialized systems of oppression and revising narratives that perpetuate anti-Black racism and impede structural change and reparatory justice for people of African descent in the United States, Haiti, and globally.

Integrating with U.S. reparations movements is especially important for Haiti. The U.S. government has had an outsized role in creating and perpetuating systems of racialized domination and exploitation that have impeded Haiti's sovereignty, democratic governance, and development.¹¹¹ Equally importantly, many of the levers for unraveling the continuing manifestations of those systems are in the United States, as well – first among them, the U.S. foreign policy establishment that continues to prop up corrupt, repressive, and illegitimate governments so long as they serve U.S. interests.¹¹² As the reaction to the *New York Times*' "The Ransom" project indicates, there is great potential for widespread support for Haiti's reparatory justice claims in the United States. As proposed above, there is power in Haiti's story and its restitution claim to advance the objectives of the U.S. racial justice and reparations movement. The next steps are to elevate and center Haitian voices in the places

see also Lauren Collins, *The Haitian Revolution and the Hole in French High-School History*, THE NEW YORKER (Dec. 3, 2020), <https://www.newyorker.com/culture/culture-desk/the-haitian-revolution-and-the-hole-in-french-high-school-history>; Interview with Howard Zinn, professor, by Bill Bigelow, Rethinking Schools curriculum editor, Zinn Education Project (Jan. 19, 2010), <https://www.howardzinn.org/collection/one-long-struggle-for-justice/>; *See* THE DEBT, *supra* note 19, at 221 ("Only in the case of black people have the claims, the claimants, the crime, the law, the precedents, the awful contemporary social consequences all been roundly ignored.").

¹¹¹ *See* Stotzky & Concannon, Jr., *supra* note 10; *see also* *Foreign Relations*, *supra* note 45; *see also* ROBINSON, *supra* note 4, at 26 ("The leaders of the white world . . . value the written compacts that bind black nations little more than they do the paper the compacts are printed on, and even less so when such documents . . . pose a hindrance to the strategies and interests of the world's powerful community of historically compulsive interlopers."); *id.* at 145 ("Against American and EU insistence, Aristide formed the government the Haitian electorate had voted for, a democratic, mass-based government . . . The Bush administration and EU members continued to pressure Aristide to disregard the electorate and do what none of them would have done in their own countries."); *id.* at 186 ("In Haiti's two-hundred-year history, one is hard put to identify a single episode of organized human suffering in which the United States did not play a direct, collateral, or instigative role."); *id.* at 18, 20.

¹¹² *Id.* at 8; *see also* *Foreign Relations*, *supra* note 45.

where they will make a difference – among activists, before Congress and the executive government, and in popular discourse.

VI. CONCLUSION

There is a well-worn Haitian proverb, “*men anpil, chay pa lou,*” or “many hands make the load light.” Right now, the load imposed on Haiti by centuries of white supremacist policies – including the Independence Debt – is heavy. A stable, democratic government – one willing to assert the restitution claim – seems out of reach for many, both in Haiti and abroad.

But Haitians have been putting their hands together to carry impossible loads for over two centuries, as Napoleon found out in 1803. They have a history of winning battles no one thought could be won, by refusing to give up. Haitians will win their fight for restitution too, but their friends outside Haiti who care about reparations can help them win sooner and at a less horrific cost by lending their own hands to the fights for both the restitution claim and the democracy that asserting the restitution claim requires. In doing so, the reparations community can help themselves, by giving Haitians the opportunity to make their full contributions to the reparations movement.