

H.R. 40: Examining the Path to Reparative Justice in America

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Thank you very much to Chairman Nadler, Chairman Cohen, and Ranking Member Johnson for the opportunity to speak, and to Congresswoman Jackson-Lee for your invitation and your leadership in regards to reparations. Today I will discuss California's past engagement with slavery and how that fueled our mission of establishing legislation, Assembly Bill 3121, to discuss reparations. Further, though California has taken this step, I will discuss why the federal government still has the responsibility to move forward with H.R. 40 at a national level.

For us in California, we were very clear that we need not ask whether or not slavery had an impact, but instead illuminate the extent to which it has. AB 3121 establishes the Task Force to Study and Develop Reparation Proposals for African Americans. It will consist of experts who will study slavery's impact, educate Californians, compile a report of their findings, and provide informed recommendations on what reparations should be enacted. The Task Force will encompass experts in fields such as history, ethnography, law, and civil rights. Most importantly, the body will consist of those who understand how we, as Californians, still reap the consequences of slavery both nationally and in our own state.

California's history with slavery is not widely known. Between California statehood in 1850 and the end of slavery in 1865, California was a "free state" in name only, with municipal and state authorities actively supporting Black enslavement in a variety of ways. For example, the California Legislature authorized southern slaveholders to hold persons in bondage so long as they entered the state with their enslaved property prior to statehood in 1850. California courts rarely

provided sanctuary to those who dared to escape the bonds of slavery in California. In 1852, California adopted a harsh Fugitive Slave Act, empowering state and local law enforcement authorities to force self-emancipated persons living within the state back into the chains of enslavement. The California Supreme Court ordered fugitive slaves, as in the historic case of Archy Lee, returned to their enslavers – in direct violation of California’s constitution. Until the end of the U.S. Civil War, California city and county law enforcement authorities enforced a bogus contract labor system, allowing slaveholders to effectively hold persons in bondage by another name. In other words, California state, county, and city authorities actively supported the institution of Black slavery both within and beyond California.

This history is not part of California’s lore or school curricula but offers concrete examples of California’s complicity in racial discrimination. This history of slavery and discrimination, both in California and nationally, is often discussed in a disjointed manner separated from the happenings of the present. But the attitudes that fueled slavery were the same attitudes that fueled the Black Codes, the Jim Crow Era, and currently fuel the era of Mass Incarceration and police violence. The attitudes that considered African Americans three-fifths a person are the same attitudes that fueled Southern poll taxes, segregated facilities, redlining, and currently fuel policies such as discriminatory gerrymandering. These attitudes have left us with systems and institutions that prevent African Americans from reaching their full potential. We must recognize the institutions that govern us are implicated in the suffering that we endure.

We make the mistake of believing that because slavery ended in 1865, that its effects ended there as well. The fact is, as a colleague once said, the plundering of the past makes the plundering of today more efficient. For African Americans, the early, devastating losses we took due to chattel slavery, and the lack of redress, has taken away our ability to accumulate wealth and security. The continuous denial of opportunities to accumulate wealth affects and alters the lives of African Americans today. Early attempts by African Americans to attain the wealth that other Americans enjoyed were met with violence. The destruction of Black Wall Street in Tulsa, OK, Allensworth, California, and the Red Summer of 1919 are examples of how our communities were attacked for their efforts to attain the American Dream. The good start that African Americans should have received was taken away. The campaign of terror met by African Americans had tactics such as fear-mongering, lynchings, discriminatory voting laws, lower wages, and denied homeownership.

These tactics bleed into the realities that we in California see today for African Americans. According to Governor Newsom's 2020 State of the State address, Black people make up 8% of California's population. However, 43% of the homeless population in California are Black people. According to a 2018 report by the Public Policy Institute of California, African-American males account for 28.5 percent of the state's male prison population, despite the fact that black men make up just 5.6 percent of the state's adult males. A recent study conducted by the California Legislative Analyst's Office states that, by nearly every state measure, Black K-12 students have the lowest performance of any racial/ethnic group. Finally, even as we debate the need for this study, COVID-19 has shed a sobering light on the culmination of these

persistent disparities. Emerging data confirms that a disproportionate burden of illness and death due to COVID-19 fall on the Black community.

In sum, the age of enslavement, both in California and across the nation, birthed a legacy of racial harm and inequity that continues to impact the conditions of Black life in California. People who suffer injuries and losses through the malicious or culpably negligent conduct of others have a right to redress. Our bill in California, Assembly Bill 3121 now signed into law, does not take a position on the form that reparations will take, but does take a clear position on reparations as necessary to address the persistent effects of slavery and its successors, including Jim Crow, sharecropping, redlining, theft of labor, wealth and capitol, over-incarceration, over policing and systemic discrimination. In the past, this nation rightly addressed grievous wrongs through reparations: Native Americans for the theft of their lands; Japanese Americans for unjust internment; the Marshall plan ensured European Jews received reparations for the Holocaust. We seem to recognize that justice requires that those who have been treated unjustly need the means to make them whole again and to make up for the losses they experienced.

Except for African Americans.

As African Americans remain the only group to be enslaved by the full power and authority of the United States, it is now time to discuss our brutal history of slavery and how we can right this tragic wrong in this country. We in California, with all due respect, recognized that we could not continue to wait for the federal government to address reparations for African Americans. I hope our work in California will

inspire a larger conversation and actions within the United States to contend with the questions of reparations. Indeed this is long overdue.