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# REPARATIONS FOR NEW AFRIKANS IN AMERICA

*Chokwe Lumumba*

## I. INTRODUCTION

What follows is a brief survey of the historical precedents, factual bases and legal analysis of the present demand for payment by the United States Government of reparatmons to descendants of Afrikan slaves ("New Afrikans") in America.<sup>1</sup> In an excellent review of the legal and factual support for reparations to New Afrikans in America,<sup>2</sup> attorney Daisy G. Collins explained that reparation is the "'redress for an injury, amends for wrong inflicted.'"<sup>3</sup>

The injuries and wrongs suffered by New Afrikans as slaves continues today: historical facts and modern statistics illustrate the badges of slavery borne by the New Afrikan population.<sup>4</sup> The discrimination against New Afrikans is actually so well established as to be a fact worthy of judicial notice.<sup>5</sup> The fact that the wrongs have continued for a long time neither justifies nor mitigates liability for them.<sup>6</sup> Sister Collins states that "'[t]here is no such thing as a vested right to do wrong.'"<sup>7</sup>

## II. HISTORY OF NEW AFRIKAN REPARATION DEMAND

New Afrikans in America have continuously demanded reparations from the United States Government or other American

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1. The phrase "New Afrikans" is used throughout the article in place of "black people in the U.S." since it refers to not only descendants of ex-slaves, but all blacks living here now. Futhermore, when any statistics are cited, "New Afrikans" is substituted for "black" in the official source such as the Census.

2. Collins, *The United States Owes Reparations to Its Black Citizens*, 16 *How. L.J.* 82, 83-85, 96-98 (1970) [hereinafter Collins]. See *infra* notes 17, 24-29, 32 and accompanying text.

3. *Id.* at 86 (quoting BLACK'S LAW DICTIONARY (4th ed. 1951)).

4. *Id.* at 84. See also *infra* note 20 and accompanying text.

5. *Id.* at 86.

6. *Id.*

7. *Id.* (quoting *Johannesen v. United States*, 225 U.S. 227, 242 (1912)).

institutions since the end of the Civil War in 1865.<sup>8</sup> Some major demands worth noting include:

1. Demands for forty acres of land for each ex-slave were made in the United States House of Representatives and the Senate, by Thaddeus Stevens and Charles Sumner, respectively.<sup>9</sup> These radical republicans, however, did not create the demand for land by Afrikans in America. Historian Lerone Bennett Jr. points out that the mass demand for land by freedmen after and during the Civil War was manifest.<sup>10</sup> W.E.B. Dubois describes the post-Civil War land rebellions by freedmen in their struggle for land and survival in the southeastern region of the country.<sup>11</sup> In fact, New Afrikans fought U.S. Marshalls in an effort to retain control of independent New Afrikan communities shortly after the Civil War.<sup>12</sup>

2. A black reparation organization organized tens of thousands of New Afrikans behind the demand for reparation in the period from the late 1800s to early 1900s. The history of that organization has been documented by New Afrikan political activist and reparation researcher Christopher Alston, whose research has culminated in an historical exhibit comprised of old news articles, letters and various other documents.<sup>13</sup>

3. In the late 1960s, reparations were demanded by the Provisional Government of the Republic of New Afrika<sup>14</sup> and by the National Black Economic Development Conference.<sup>15</sup>

4. In 1972, 10,000 Black delegates gathered at the Black National Convention in Gary, Indiana, and adopted a Black Agenda which specifically called for reparations to Blacks in America from the U.S. government.<sup>16</sup>

5. Currently, numerous political formations and individuals are organizing people around a call for reparations, including

8. See, generally, Collins, *supra* note 2.

9. L. BENNETT, JR., BEFORE THE MAYFLOWER 189 (1962).

10. *Id.* at 188.

11. W.E.B. DuBOIS, BLACK RECONSTRUCTION 386 (1932).

12. I. Obadele, The Article Three Brief 7 (1973).

13. For information concerning the Alston exhibit, contact the *Journal of Human Rights*.

14. The Republic of New Afrika is a black nationalist government in exile. Collins, *supra* note 2, at 85.

15. SCHUCHTER, REPARATIONS: THE BLACK MANIFESTO AND ITS CHALLENGE TO WHITE AMERICA (1970).

16. See *e.g.* The Christian Sci. Monitor, Apr. 6, 1984, at 6.

Sister Dorothy Lewis, former Chairperson of the National Black Reparations Organization; the Provisional Government of the Republic of New Afrika; the New Afrikan Peoples Organization; and the Afrikan National Reparations Organization.

These few examples illustrate the strength and durability of the reparations movement which has continued for over one hundred years.

### III. FACTS AND LAW SUPPORT THE REPARATIONS DEMAND

The horrible history of the slave trade, slavery and countless other human rights violations perpetrated upon the New Afrikan population is well documented. Indicators of economic, social, educational and political status and condition of New Afrikans in America today demonstrate both the contemporary impact of these historic horrors and the current existence of colonial oppression of New Afrikans under the political and economic power of the United States.<sup>17</sup>

#### A. *Constitutional Basis For Reparations*

Reparations payments to New Afrikans require no constitutional amendment; the thirteenth amendment of the Constitution of the United States is the basis for a reparations bill. The thirteenth amendment states that:

Section 1. Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by *appropriate legislation*.<sup>18</sup>

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17. Collins, *supra* note 2, at 83-85, 96-98. Modern statistics illustrate a continuing disparity between New Afrikans and whites in income level and education. In 1959, 55.5% of New Afrikan families lived below the poverty level compared to only 18.1% of white families. STATISTICAL ABSTRACT OF THE UNITED STATES: 1986, U.S. BUREAU OF THE CENSUS 457 (1985). Disparity in income still existed in 1984, with 33.8% of New Afrikans below the poverty level and 11.5% of whites similarly situated. *Id.* In the area of education, the percentage of New Afrikans with four years of high school or more was 31.4% in 1970 and 51.2% in 1980, compared to 54.5% in 1970 and 68.8% in 1980 for whites. *Id.* at 135.

18. U.S. CONST. amend. XIII §§ 1 & 2 (emphasis added).

All shades and conditions of Afrikan slavery are abolished by section one,<sup>19</sup> and Congress is granted the authority to legislate against all shades, conditions, badges, and incidents of slavery pursuant to section two.<sup>20</sup> Thus, this amendment supports any proposition to correct the economic disparity and discrimination between whites and New Afrikans as a result of enslavement.

Incidents of slavery continued after the enactment of the thirteenth amendment, in the form of theft of black genius and invidious discrimination in all areas of their lives, such as employment and housing.<sup>21</sup> These incidents and other badges of slavery have deprived the New Afrikan population of considerable wealth, leaving the black masses in wretched social and economic conditions.<sup>22</sup> Slavery and its progeny reduced the vast majority of New Afrikans to worse conditions than those of the white population.<sup>23</sup> Consequently, reparations should be legislated by the Congress under the thirteenth amendment in order to alleviate the vestiges of slavery which continue to exist today.

Sister Collins agreed that the thirteenth amendment is a proper constitutional basis for reparation legislation.<sup>24</sup> However, she also argued that through slavery and invidious discrimination, New Afrikans have been deprived of property without due process of law in violation of the fifth and fourteenth amendments.<sup>25</sup> It may be said that New Afrikans have been deprived of life and liberty without due process as well. Collins thus argued that reparations are necessary to secure economic rights for blacks sufficient to achieve parity with whites.<sup>26</sup>

### B. *Reparations and Self-Determination*

Sister Collins argued that the fourteenth amendment provides a basis for reparation, noting that section 1 supposedly "makes" blacks citizens of the United States, while section 5

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19. *Slaughter-House Cases*, 16 Wall. 36, 17 (1873).

20. *United States v. Harris*, 106 U.S. 629 (1883).

21. See, generally, Obadele, *Reparations Now!*, 5 N.Y.L.S. J. Hum. Rts. 369 (Spring 1988).

22. *Id.*

23. For statistics concerning contemporary conditions, see *supra* notes 2, 17 and accompanying text.

24. Collins, *supra* note 2, at 91-93.

25. *Id.* at 89-91, 93-95.

26. *Id.* at 82, 87.

grants Congress power to enforce it.<sup>27</sup> By so doing, the fourteenth amendment “makes” New Afrikans Citizens of the United States. Sister Collins appears to assume that “making” New Afrikans citizens of the United States is both desirable and consistent with reparations and human rights principles.<sup>28</sup> Both assumptions are wrong. “Making” free people citizens without their informed consent is in fact a limitation on their freedom. If the informed consent of the population in question exists, then the the individual members of that population are not “made” citizens, but become citizens under their own volition.

The imposition of United States’ citizenship on New Afrikans without our expressed consent offends our human right to self-determination and jeopardizes true realization of other human rights. The distinction between “making” New Afrikans citizens of the United States and affording us the voluntary choice of such citizenship is important for many reasons:

First, many of us do not want to be citizens of the United States. History suggests that this has been the case since the inception of the United States.<sup>29</sup>

Second, it should be noted that an imposition of citizenship on those New Afrikans not desiring it is a badge of slavery. But for our enslavement, no such “citizenship” could be imposed.

Third, imposed citizenship offends the thirteenth amendment. It limits the freedom declared by that amendment and subjects many so-called free persons to an unwanted political status merely by virtue of their presence in the United States—a presence which emanates from the enslavement that the thirteenth amendment purportedly abolished. No person or population so disposed can be said to have received full reparation for slavery.

The political essence of slavery is not merely found in economic exploitation of labor, but in the illegal imposition of United States jurisdiction over the slave, or slaves’ descendants. Full reparation must relieve any imposed political status.

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27. *Id.* at 88, 93-94.

28. *Id.* at 94.

29. Collins, *supra* note 2, at 86-87. For example, Denmark Vessey, Gabriel Prosser, Nat Turner, Henry Garnett, Afrikan Blood Brotherhood, Marcus Garvey, Nation of Islam, et al. See Obadele, *supra* note 48, at 381.

C. *International Law Supports the Reparations Demand*

According to Sister Collins, international law supports United States' reparations to New Afrikans. Articles I and 55 of the United Nations Charter both refer to the principles of equal rights, self-determination of peoples, and to human rights and fundamental freedoms without distinction as to race.<sup>30</sup> Sister Collins states that as a signator to the Charter, the United States is obligated to remove all racial inequality for which it is responsible. She also notes that the Universal Declaration of Human Rights imposes obligations on the United States to eliminate all forms and relics of slavery, and to afford all in its jurisdiction an adequate standard of living.<sup>31</sup> The United States' failure to meet these obligations supports the Black reparation claim.<sup>32</sup>

In order to interpret the fourteenth amendment in a manner consistent with the international right to self-determination, and consistent with the thirteenth amendment, the fourteenth amendment's declaration on citizenship must be viewed as an offer of citizenship, which Congress through appropriate legislation must extend to New Afrikans. Properly interpreted, the fourteenth amendment does not require imposition of U.S. citizenship on New Afrikans.

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30. U.N. CHARTER arts. 1, 55.

31. Collins, *supra* note 2, at 86-87.

32. *Id.* at 87.