



# *Slavery and Justice*

REPORT OF THE Brown University  
Steering Committee on  
Slavery and Justice



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ON SLAVERY AND JUSTICE

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# Executive Summary

**I**N 2003, BROWN UNIVERSITY PRESIDENT RUTH J. SIMMONS appointed a Steering Committee on Slavery and Justice. Composed of faculty, administrators, and students, the committee was asked to investigate the University's historical relationship to slavery and the transatlantic slave trade. The committee was also asked to organize public programs that might help Brown students and interested members of the public to reflect on the meaning of this history in the present, on the complex historical, political, legal, and moral questions posed by any present-day confrontation with historical injustice.

The steering committee delivered its final report in October 2006. Following a period of discussion and public comment, President Simmons and the Brown Corporation, the governing body of the University, issued a formal response in February 2007, outlining specific steps that the University would take in light of the committee's findings. The full text of the University's response can be found on the steering committee's Web site ([www.brown.edu/slaveryjustice](http://www.brown.edu/slaveryjustice)). The site offers additional information about the committee's appointment and activities, as well as video excerpts of committee-sponsored events, curricular materials for teachers interested in introducing the study of slavery and the slave trade in their classrooms, and a collection of relevant historical documents. Included in this collection is a complete documentary reconstruction of the voyage of a Rhode Island slave ship, the *Sally*, which sailed from Providence in 1764, the year of the University's founding.

The report that follows includes three sections, followed by a conclusion and recommendations.

## **Slavery, the Slave Trade, and Brown University**

Section One details the committee's historical findings. Although most Americans today think of slavery as a Southern phenomenon, the institution existed in all thirteen mainland colonies, including Rhode Island, where about ten percent of the population in the mid-eighteenth century was enslaved. Rhode Islanders also played a leading role in the transatlantic slave trade, mounting more than 1,000 African slaving voyages in the century before the abolition of the trade in 1807. In all, more than 100,000 enslaved Africans were carried to the Americas on Rhode Island ships, the majority of them to the sugar-producing colonies of the Caribbean.

Slavery and the slave trade shaped the early history of the College of Rhode Island, what is today Brown University, in numerous ways. The steering committee was able to identify approximately thirty members of the College Corporation, the school's governing body, who owned or captained slave ships. Slave owners and slave traders were prominent among the College's early donors, and at least four enslaved laborers contributed to the

construction of the College Edifice, which is today called University Hall. Yet Brown also proved to be an important wellspring of the anti-slavery movement. Members of the College Corporation helped to enact some of the first state and federal laws against slavery and slave trading and pressed for the prosecution of those who violated them – including, in some cases, other Corporation members. The dispute split the College’s namesake family. The first individual charged in U.S. federal court for illegal slave trading was John Brown, the college’s long-time treasurer, who was prosecuted at the behest of the Providence Abolition Society, an organization founded by his younger brother, Moses. The issue also divided students, who argued the merits of slavery and abolition in classrooms, commencement orations, and debating societies. As the report’s detailed historical reconstruction shows, we are not the first generation to debate Brown’s relationship to slavery or to debate our own responsibilities in light of it.

### **Confronting Historical Injustice: Comparative Perspectives**

In her letter charging the steering committee, President Simmons suggested a careful examination of “comparative and historical contexts” that might illuminate Brown’s situation, as well as the broader problem of “retrospective justice.” How have other institutions and societies around the world dealt with historical injustice and its legacies, and what might we learn from their experience? A substantial majority of the committee’s public programs pertained to this aspect of its charge, which is the subject of the second section of the report.

The section recounts mankind’s long and continuing struggle to define, deter, and alleviate the effects of “crimes against humanity,” a concept conceived in the eighteenth century and formally codified in international law in the twentieth century. Crimes against humanity include not only slavery and slave trading but also genocide, “ethnic

cleansing,” mass rape, and other forms of gross injustice. One of the signature developments of the post-World War II era, and of the last twenty years in particular, has been the emergence of an international consensus on the importance of confronting such crimes, as well as the development of a variety of mechanisms for doing so. These mechanisms include not only monetary reparations (the focus of most discussions of the subject in the United States today) but also truth commissions, national and institutional apologies, the creation of public memorials and days of remembrance, educational initiatives, and a wide variety of other non-monetary reparative programs. The report examines the possibilities and potential pitfalls of all of these approaches, as well as some of the specific circumstances in which they have been or might be used. It also examines the experiences of societies that have, for one reason or another, declined to confront atrocious pasts. The section includes extensive notes for readers interested in pursuing particular cases or issues in greater detail.

### **Confronting Slavery’s Legacy: The Reparations Question**

President Simmons specifically asked the steering committee “to organize academic events and activities that might help the nation and the Brown community think deeply, seriously, and rigorously about the questions raised by the national debate over reparations for slavery.” Reparations, she noted, was a highly controversial subject “about which men and women of good will may ultimately disagree,” but it was also a subject on which Brown, in light of its own history, had a “special obligation and special opportunity to provide thoughtful inquiry.” The president stressed that the committee would not determine whether or how Brown might pay monetary reparations, nor did she expect it to forge a consensus on the reparations question. Its task, rather, was “to provide factual information and critical perspectives to deepen understanding” and enrich debate about an issue that had aroused great public passion but little constructive public dialogue.

Section Three of the report pertains to this aspect of the committee's charge. It examines the contours of the current slavery reparations controversy, recounting recent efforts to obtain reparations through legislation or litigation, as well as the criticism and opposition that these efforts have provoked. It also examines the controversy's deeper historical roots, a context that has been almost completely overlooked in current political debate. What actually happened when slavery was abolished, first in northern states like Rhode Island, and later in the South? What legacies did slavery bequeath to the nation, and what attempts were made to redress those legacies, both in the immediate aftermath of abolition and subsequently? What forms has the movement for redress taken at different historical moments, with what results? In examining these and other questions, the report does not seek to resolve the reparations controversy but rather to offer factual information and critical perspectives that might help Americans of all persuasions discuss the issues more openly and thoughtfully. This section also contains extensive notes, elaborating particular issues and offering suggestions for further reading.

### **Conclusions and Recommendations**

As even this short summary makes clear, the steering committee's report is intended not as the last word on the subjects of slavery and justice but rather as an invitation to continuing dialogue and debate on the Brown campus and in the nation as a whole. Yet in the course of their research, committee members reached certain conclusions.

These are presented in a short final section of the report, accompanied by a series of recommendations directed specifically at Brown University. These recommendations include:

- Formal acknowledgment by the University of the participation of many of Brown's founders and benefactors in the institution of slavery and the transatlantic slave trade, as well as of the benefits that the University derived from them;
- A series of initiatives, including the commissioning of a new University history and the erection of a slave trade memorial, to ensure that this aspect of Brown's and Rhode Island's history is properly understood and memorialized;
- The creation of a dedicated academic center to foster research and teaching on issues related to slavery and other forms of historic and contemporary injustice, as well as the struggles against them;
- Maintenance of the highest possible ethical standards in regard to investments and gifts;
- Expanded opportunities at Brown for those disadvantaged by the legacies of slavery and the slave trade;
- An array of initiatives with local public schools to help ensure quality education for the children of Rhode Island.

We cannot change the past. But an institution can hold itself accountable for the past, accepting its burdens and responsibilities along with its benefits and privileges. The report of Brown's Steering Committee on Slavery and Justice is offered in this spirit.



Report of the Steering Committee  
on Slavery and Justice

## Introduction

**L**ET US BEGIN WITH A CLOCK.

In 2003, Brown University President Ruth J. Simmons appointed a Steering Committee on Slavery and Justice to investigate and issue a public report on the University's historical relationship to slavery and the transatlantic slave trade. Since that time, the committee, which includes faculty, students, and administrators, has met periodically in

an office on the second floor of University Hall, the oldest building on the Brown campus. In the corner of the office stands an antique clock. A silver plaque on the cabinet identifies it as "The Family Clock of Admiral Esek Hopkins." Built in the 1750s by a local craftsman, Samuel Rockwell, the clock was donated to Brown in the 1850s by Hopkins's granddaughter. Such artifacts and heirlooms abound on the campus, and it took several months for committee members to notice the clock or to recognize its significance.



Though less celebrated than his older brother Stephen, a colonial governor and signer of the Declaration of Independence, Esek Hopkins is a well-known figure in Rhode Island history. A Providence ship captain, he served as the first commander-in-chief of the United States Navy during the American Revolution. After the war, he was elected to the state legislature. Like his brother, he was a strong supporter of Brown, then known as the College of Rhode Island, serving as a member of the Board of Trustees from 1782 to 1802. His memory is enshrined today in several

public sites in Providence, including the Esek Hopkins Middle School, Esek Hopkins Park (which includes a statue of him in naval uniform), and Admiral Street, where his old house still stands.

There is another aspect of Esek Hopkins's story, unmentioned on any of the existing memorials. In 1764, the year that the College of Rhode Island was founded, Hopkins sailed to West Africa in command of a slave ship, a one-hundred-ton brigantine called the *Sally*. The *Sally* was owned by Nicholas Brown and Company, a partnership of four brothers, Nicholas, John, Joseph, and Moses Brown. Prominent Providence merchants, the Browns were also important benefactors of the college, playing a leading role in relocating the school from its original home in Warren, Rhode Island, to its current location in Providence. (In 1804, the College of Rhode Island changed its name to Brown University, in recognition of a gift from Nicholas's son, Nicholas Jr.) There was nothing unusual about a slave ship departing from Rhode Island. Rhode Islanders dominated the North American share of the African slave trade, mounting over a thousand slaving voyages in the century before the abolition of the trade in 1807 (and scores more illegal voyages thereafter). The *Sally*'s voyage was deadlier than most. At least 109 of the 196 Africans that Hopkins purchased on behalf of the Browns perished, some in a failed insurrection, the balance through disease, suicide, and starvation. The records of the venture, from the fitting out of the ship in August 1764 to the sale of surviving



captives on the West Indian island of Antigua fifteen months later, are housed in a library on the Brown campus, though few have troubled to look at them, at least until recently.

We shall return to the voyage of the *Sally*, an episode of considerable significance in the lives of the Brown brothers, three of whom seem never again to have invested directly in transatlantic slaving voyages. But let us return first to the clock. What should the University do with it, now that we know more about its origins? Is it appropriate to display it? Should we remove the plaque honoring Esek Hopkins? Attach another plaque? We are obviously speaking metaphorically here, but the underlying questions could not be more direct. How are we, as members of the Brown community, as Rhode Islanders, and as citizens and residents of the United States, to make sense of our complex history? How do we reconcile those elements of our past that are gracious and honorable with those that provoke grief and horror? What responsibilities, if any, rest upon us in the present as inheritors of this mixed legacy? The Brown University Steering Committee on Slavery and Justice represents one institution's confrontation with these questions.

### **The Committee's Charge**

The president's charge to the steering committee had two dimensions. Our primary task was to examine the University's historical entanglement with slavery and the slave trade and to report our findings openly and truthfully. But we were also asked to reflect on the meaning of this history in the present, on the complex historical, political, legal, and moral questions posed by any present-day confrontation with past injustice. In particular, the president asked the committee "to organize academic events and activities that might help the nation and the Brown community think deeply, seriously, and rigorously about the questions raised" by the national debate over reparations for slavery. Reparations, she noted, was a highly controversial subject, presenting "problems about which men and women of good will may ultimately disagree," but it was also a subject on which Brown, in light of its own history, had "a special obligation and a

special opportunity to provide thoughtful inquiry." In her letter of charge and in a public statement following the announcement of the committee's appointment, the president stressed that the committee would not determine whether or how Brown might pay monetary reparations, nor did she expect it to forge a consensus on the reparations question. Its object, rather, was "to provide factual information and critical perspectives to deepen understanding" and enrich debate on an issue that had aroused great public passion but little constructive public dialogue.<sup>1</sup>

### **Overview of Activities**

The steering committee has endeavored to fulfill this charge. Members of the committee, assisted by other Brown faculty as well as by undergraduate and graduate student researchers, gathered information about Brown's past, drawing on both published sources and various historical archives. The committee also sponsored more than thirty public programs, including scholarly lectures, panel discussions, forums, film screenings, and two international conferences exploring the experience of other societies and institutions that have grappled with legacies of historical injustice. In all, we entertained more than a hundred distinguished speakers, ranging from Professor John Hope Franklin, who discussed his tenure as chairman of One America, President Clinton's short-lived national commission on race, to Beatrice Fernando, a slavery survivor from Sri Lanka, who spoke on the problem of human trafficking today. The committee is currently preparing a selection of these presentations for publication in a scholarly anthology.<sup>2</sup>

The steering committee also organized programs and activities beyond the University's gates. Committee members addressed community groups and participated in workshops for local teachers and students. A museum exhibition about the *Sally*, mounted by undergraduate research stu-

dents working with the committee, is currently touring public libraries across the state. The exhibition, “Navigating the Past: The Voyage of the Slave Ship *Sally*, 1764-1765,” has also been exhibited at the John Brown House, the historic home of one of the ship’s owners, and at the Museum of Antigua and Barbuda in St. John’s, Antigua, the final destination of surviving captives from the ship. Members of the committee also collaborated with the Choices Program, a curricular development group affiliated with Brown’s Watson Institute for International Studies, to write and publish a high school curriculum, “A Forgotten History: The Slave Trade and Slavery in New England.” With the support of the office of President Simmons, the committee was able to donate copies of the curriculum to every high school history and social studies classroom in Rhode Island.<sup>3</sup>

**This is an effort designed to involve the campus community in a discovery of the meaning of our past. . . . Understanding our history and suggesting how the full truth of that history can be incorporated into our common traditions will not be easy. But, then, it doesn’t have to be.**

Ruth Simmons, on her decision to establish Brown’s Steering Committee on Slavery and Justice, *Boston Globe*, April 28, 2004

### Structure of the Report

The report that follows represents the culmination of the committee’s work. It contains three sections, reflecting the different elements of the president’s charge. The first focuses on history, exploring different aspects of the University’s relationship to slavery. This section reveals the complicity of many of the University’s founders and benefactors in slavery and the slave trade, and outlines some of the direct benefits that accrued to the University. Yet it also seeks to do more. Brown’s formative decades coincided with many of the signal events in America’s tortuous racial history: the peak of the

transatlantic slave trade and the appearance of a popular movement decrying the trade as criminal; the birth of a new nation, dedicated to the proposition that all people were created equal and endowed with certain inalienable rights, and the emergence of racist ideologies insisting that people were not equally created or endowed; the gradual abolition of slavery in the northern states and the rapid expansion of the institution in the South. Brown University was shaped by all of these developments, and members of the campus community, including students, vigorously debated their meaning and significance. We are not the first members of the Brown community to confront our University’s historical complicity in slavery and the slave trade or to debate our own responsibilities in light of it.

The second section looks beyond Brown to the problem of retrospective justice around the world. How have other institutions and societies dealt with the legacies of gross injustice – not only of slavery, but also of genocide, “ethnic cleansing,” and other crimes against humanity? One of the signature developments of the last sixty years, and of the last twenty years in particular, has been the emergence of an international consensus on the importance of confronting traumatic histories, as well as the development of a variety of mechanisms for doing so, including international tribunals, truth commissions, national apologies, the erection of public memorials, and a wide array of monetary and non-monetary reparations programs. While this history has spawned a voluminous scholarly literature, it has had relatively little bearing on the slavery reparations debate in the United States, which has, at least in recent years, focused narrowly on the issue of monetary reparations. Our object in this section of the report is to bring this comparative, global experience to bear on the American case, and on the predicament of our University in particular. What is a crime against humanity? Where does the concept come from, and what does it entail? What legacies do such crimes leave,

and what mechanisms exist to redress them? Do all historical injuries merit remedy? When does it become too late to redress an injustice? The section includes extensive notes for individuals interested in pursuing particular issues and questions in greater detail.

In the final section, we turn to the slavery reparations debate in the United States, examining the contours of the current controversy as well as the issue's deeper historical roots. In keeping with

*“Are we wrong, are we merely superstitious, if we hold that those early leaders, passing through our American colleges, have left a portion of themselves behind?” President Faunce asked. “It is not only ivy that clings to ancient walls – it is memories, echoes, inspirations. The very stones cry out a summons...”*

the president's charge, our object is not to resolve the reparations debate but rather to illuminate questions and contexts that are often overlooked in public discussion today. What actually happened when slavery was abolished, first in northern states like Rhode Island, and later in the South? What legacies did slav-

ery bequeath to the nation, and what attempts were made to redress those legacies, both in the immediate aftermath of abolition and subsequently? What forms has the movement for slave redress taken at different historical moments, with what results? In short, where did the current reparations movement come from? This section too contains extensive notes, elaborating particular issues and offering suggestions for further reading.

As should be clear, the steering committee does not intend this report as the last word on the subject, but rather as the first words in a dialogue that we hope will continue on our campus and in our nation. Yet in the course of our research, we also reached certain conclusions. We share these at the end of the report, accompanied by a series of recommendations directed specifically at Brown University.

## A Summons

One of the committee's first actions was to invite anyone interested in our efforts to submit questions, comments, and criticisms. Hundreds of individuals availed themselves of the opportunity, some of them members of the Brown community, most of them not. The temper of the letters varied widely, but one question arose again and again. Why would Brown launch such an undertaking? Why risk opening chapters of the past that are, inevitably, controversial and painful? We hope that the committee's work – the programs we organized and the report that follows – will suffice as an answer. But there is an even simpler answer: Brown is a university. Universities are dedicated to the discovery and dissemination of knowledge. They are conservators of humanity's past. They cherish their own pasts, honoring forbears with statues and portraits and in the names of buildings. To study or teach at a place like Brown is to be a member of a community that exists across time, a participant in a procession that began centuries ago and that will continue long after we are gone. If an institution professing these principles cannot squarely face its own history, it is hard to imagine how any other institution, let alone our nation, might do so.<sup>4</sup>

As it happens, one of the most eloquent expositions of the idea of the university came from a Brown president, Rev. William Faunce, in a 1914 sermon celebrating the University's sesquicentennial. “Are we wrong, are we merely superstitious, if we hold that those early leaders, passing through our American colleges, have left a portion of themselves behind?” Faunce asked. “It is not only ivy that clings to ancient walls – it is memories, echoes, inspirations. The very stones cry out a summons...” He continued: “Have we entered so new a world that we have no further connection with the generation in which these colleges were born? To think so would be to show ourselves without the sense of either historic continuity or moral obligation.” It is in that spirit, and with a deep sense of historic continuity and moral obligation, that we offer this report.<sup>5</sup>

# *Slavery, the Slave Trade, and Brown University*

**A**MERICANS in the nineteenth century referred to slavery as “the peculiar institution,” but historically it is not peculiar at all. On the contrary, it is a virtually universal feature of human history. The oldest surviving system of written laws, the Code of Hammurabi, includes regulations about slavery, as does the Old Testament. Slavery was ubiquitous in the classical world; about a third of the inhabitants of ancient Athens were slaves, roughly the same proportion as in the antebellum American South. Slavery existed in the Muslim world (usually as a status reserved for non-Muslims) and in Meso-America, in Africa and Asia, and in western and eastern Europe. (The English word “slave” derives from “Slav.”) Nor is slavery simply a matter of the past. Though slavery and slave trading are universally prohibited in national and international law, they remain endemic in the world today. While estimates vary, at least eight-hundred thousand and perhaps as many as three million people are trafficked annually, most of them women and children.<sup>6</sup>

## **Slavery in Historical Perspective**

Slavery was the cornerstone of the colonization of the Americas. Of the ten million or so people who crossed the Atlantic before 1800, at least seven million – roughly three of every four people – were enslaved Africans. By the time the transatlantic trade was finally suppressed in the 1860s, at least ten million Africans had been carried into New World slavery, while an estimated two million more had died in the passage. The vast majority was

imported into the sugar colonies of the Caribbean and South America, where massive mortality of enslaved workers necessitated a constant infusion of laborers. (The average life expectancy of a slave on a Caribbean sugar plantation was less than seven years.) Brazil alone imported at least four million enslaved Africans over the centuries of the trade. Between five-hundred thousand and six-hundred thousand enslaved Africans were imported into mainland North America, what is today the United States.<sup>7</sup>

Different societies in history developed their own understandings of slavery, as well as their own laws and customs for regulating it. But whatever the local variations, there were certain commonalities that marked slavery as a distinct condition. Slaves everywhere were subject to physical and sexual abuse. They typically served for life and often passed that status on to their children. Perhaps most important, slaves were outsiders, not only in the literal sense of coming from outside the societies in which they were held but also in the sense of being excluded from the basic recognition and rights enjoyed by those who were free. In the United States, for example, the free-born could contract marriages, buy and sell property, testify in court, and make basic decisions about the welfare of their children. Slaves could do none of these things. In the words of scholar Orlando Patterson, slavery was a form of “social death.”<sup>8</sup>

## **Slavery and Race**

The dishonor and degradation association with enslavement inevitably gave rise to contempt for the people who were enslaved. Though the particulars differ, slaves throughout history have been

stigmatized as inferior, uncivilized, bestial. Few if any societies in history carried this logic further than the United States, where people of African descent came to be regarded as a distinct “race” of persons, fashioned by nature for hard labor. This process took time. Initially, American colonists justified the enslavement of Africans chiefly in terms of religion and culture; Africans were described as “heathenish” and “savage.” But by the

*Slavery, the author declared, “casts the most indelible odium on a whole people, causing some...to infer that they are a different race formed by the Creator for brutal service, to drudge for us with their brethren of the stalls.”*

era of the American Revolution such rationalizations had been supplanted by an explicit theory of race, in which black people’s inferiority was assumed to be innate and ineradicable, a product not of their circumstances or condition but of their physical nature. An early

anti-slavery treatise, published in the *Providence Gazette* in 1773, explained the process succinctly. “Slave keeping,” the anonymous author wrote, was a “custom that casts the most indelible odium on a whole people, causing some...to infer that they are a different race formed by the Creator for brutal service, to drudge for us with their brethren of the stalls.”<sup>9</sup>

This process of dehumanization was abetted by developments in American law. In contrast to the plantation colonies of Spain and Portugal, which inherited legal definitions of slavery through the Catholic Church and the tradition of Roman-Dutch law, settlers in mainland North America were left to fashion their own slave codes. And the laws they fashioned, beginning in Virginia in the 1620s and continuing through the Civil War, were historically unprecedented in their complete denial of the legal personality of the enslaved. Slaves in North America were chattel, no different in law from horses, handlooms, or other pieces of disposable property. The North American colonies were also highly unusual in tracing slave descent

through the maternal rather than paternal line, a system that ensured, in practice, that most children of “mixed” ancestry would be themselves enslaved. This descent rule, first enacted by colonial legislatures in Virginia and Maryland in the 1660s, would have an enduring effect on American culture, laying the foundations of our distinctive binary system of racial classification, in which even partial African ancestry – one drop of blood, in the terms of the notorious Virginia Racial Integrity Act of 1924 – renders an individual categorically black.<sup>10</sup>

If American slavery has any claims to being historically “peculiar,” its peculiarity lay in its rigorous racialism, the systematic way in which racial ideas were used to demean and deny the humanity of people of even partial African descent. This historical legacy would make the process of incorporating the formerly enslaved as citizens far more problematic in the United States than in other New World slave societies.

### **Forgotten History: New England and Slavery**

Most Americans today think of slavery as a southern institution. New Englanders, in particular, have contrived to erase the institution’s presence from their collective memory. But slavery existed in all thirteen colonies and, for a time, in all thirteen original states. In New England, the first slaves were Native Americans, captured in the escalating conflict between settlers and the indigenous population. New Englanders began to import Africans in 1638, initially by exchanging Native Americans captured in the Pequot War for black slaves from the West Indies. This commerce was revived, on a far greater scale, in the aftermath of King Philip’s War in the 1670s, and it continued intermittently through the early eighteenth century. One of the programs sponsored by the steering committee brought together descendants of Native American captives transported from Rhode Island to Bermuda more than three hundred years ago with representatives of more than a dozen native nations in the eastern United States and Canada.<sup>11</sup>

Initially, New Englanders drew a moral distinction between purchasing enslaved Africans from the West Indies (who were assumed to have been captured in war and thus legitimately held) and the actual business of enslaving Africans. Thus the arrival of the first shipload of West Indian slaves in 1638 occasioned no scruples, but when a Massachusetts ship returned from West Africa seven years later with a cargo of new captives it provoked a scandal. The captain and crew were arraigned by the General Court for the “haynos and crying sinn of man stealing” and the captives were returned to Africa at colony expense. This distinction was soon lost, however, and Massachusetts ships began to embark for West Africa.<sup>12</sup>

### **Slavery and Abolition in Rhode Island**

The first enslaved Africans entered Rhode Island sometime after 1638. Though their numbers were initially very small, they were conspicuous enough to attract the attention of the Rhode Island General Court, which in 1652 passed a law abolishing African slavery. According to the statute, which was evidently never enforced, “no black mankinde” could be forced to serve a master for “longer than ten years,” after which they would be “free, as the manner is with English servants.” In 1659, the legislature acted again, banning the further importation of African captives. But this statute too went unenforced, and the enslaved population continued to grow, as did the gulf between white servants and black (and Native American) slaves. By the middle of the eighteenth century, about ten percent of Rhode Islanders were enslaved. The greatest concentrations of slaves lived in Newport, the colony’s premier port, and in South County, which was home to a thriving plantation economy.<sup>13</sup>

Slavery endured in Rhode Island for nearly two hundred years. As in Pennsylvania, New York, and most other northern states, the institution ended gradually. In 1784, the Rhode Island legislature enacted a Gradual Abolition Act, which specified that every person born in the state after March 1 of that year would be free. While representing a significant victory for the state’s embryonic

anti-slavery movement, the law also showed considerable deference to slaveowners. It did nothing to alter the status of those born before the specified date, who continued to serve their owners for life. Nor did it immediately alter the circumstances of freeborn children, who were compelled to serve their mothers’ owners for twenty-one years before assuming their promised status. But the law did put the institution on the road to extinction in the state. The final few slaves in Rhode Island disappeared, either through death, manumission, or sale out of state, in the early 1830s.<sup>14</sup>

**This seems an effort fraught with potential for conflict, embarrassment, and discord. But few issues in U.S. society are so important, and you deserve great credit for taking on this important work. And your efforts – if they are rigorous and critical and comprehensive – could serve as a model for a broader discussion throughout our society of the residue of slavery.**

Letter to the Steering Committee, April 2004

**You disgust me, as you disgust many other Americans. Slavery was wrong, but at that time it was a legal enterprise. It ended, case closed. You cite slavery’s effects as being the reason that black people are so far behind, but that just illustrates your ignorance. Black people, here and now, are behind because some can’t keep their hands off drugs, or guns, or can’t move forward, can’t get off welfare, can’t do the simple things to improve their life. . . . They don’t deserve money, they deserve a boot in the backside over and over until they can find their own way. . . . Can your ignorant research, and can Ruth Simmons, too.**

Letter to the Steering Committee, April 2004

### The Rhode Island Slave Trade

Rhode Island's distinction lay not in slavery but in the leading role that the colony and state played in the transatlantic slave trade. Though Rhode Islanders lagged behind their Massachusetts neighbors in entering the trade, they soon made up for their slow start. The first recorded transatlantic slaving voyages from the colony embarked in the early years of the eighteenth century. By the close of the trade, more than a century later, Rhode Islanders had mounted at least a thousand voyages, carrying over one-hundred thousand Africans into

New World slavery.

While such totals are far smaller than those amassed by the Portuguese, British, Spanish, and French, they are extraordinarily high in the American context. In all, more than half of slave trading voyages launched from North America – in some years more than

ninety percent – issued from tiny Rhode Island. As we shall see, nearly half of the Africans transported by Rhode Islanders were trafficked illegally, by ships operating in defiance of a 1787 state law prohibiting residents of the state from trading in slaves, federal statutes of 1794 and 1800 barring Americans from carrying slaves to ports outside the United States, and the 1807 Congressional act abolishing the transatlantic slave trade.<sup>15</sup>

Some of those carried on Rhode Island ships were brought back to Rhode Island; the streets of Newport were literally paved by revenues generated from a duty on slave imports. The vast majority, however, ended up farther south, in the sugar-producing colonies of the Caribbean and later in the southern states. In the colonial period, Rhode Island was one corner of what contemporaries

called the “triangle trade,” in which slave-produced sugar and molasses from the Caribbean were carried to Rhode Island and distilled into rum, which was then carried to West Africa and exchanged for captives, to produce more sugar, more rum, and more slaves. In 1764, the year of Brown University's founding, Rhode Island boasted some thirty rum distilleries, including twenty-two in Newport alone.<sup>16</sup>

A few Rhode Island families made substantial fortunes in the trade. William and Samuel Vernon, Newport merchants who would later earn a place in American history for their role in financing the creation of the United States Navy, sponsored more than thirty African slaving ventures. The D'Wolfs of Bristol were the largest slave trading family in all of North America, mounting more than eighty transatlantic voyages, the vast majority of them in defiance of state and federal law. (The primary destination for captives on D'Wolf ships was Cuba, where the family owned its own sugar plantation.) But the real story of the Rhode Island slave trade is not of a few great fortunes but of extremely broad patterns of participation and profit. Even with the inevitable gaps in the documentary record it is possible to identify by name some seven hundred Rhode Islanders who owned or captained slave ships. The roster includes virtually every substantial merchant, as well as many ordinary shopkeepers and tradesmen, many of whom purchased shares in slaving voyages, much as Americans today buy shares in corporations.<sup>17</sup>

Even those who did not invest directly in the trade often depended on it for their livelihoods. Boatwrights built ships, and blacksmiths and block-makers fitted them out. Sail lofts and ropewalks prepared canvas and rigging. Caulkers scraped and sealed hulls. Carpenters built shelving below decks to hold the ships' human cargo. Distilleries churned out rum, sealed in barrels fashioned by coopers from local pine, oak, and iron. Factories and foundries produced whale oil candles, cloth, and iron bars, all important trade goods on the West African coast. Farmers supplied beef, flour, tobacco, and onions. In the words of historian Rachel Chernos Lin, one of the speakers spon-

*While the vast majority of enslaved Africans carried on Rhode Island ships were transported to the sugar colonies of the Caribbean, some were brought back to Rhode Island. The streets of Newport were literally paved with revenues generated from a duty on slave imports.*



*Governor Stephen Hopkins, signer of the Declaration of Independence and first Chancellor of the College of Rhode Island, with the College Edifice in the background. Portrait by John Philip Hagen.*

sored by the steering committee, the Rhode Island slave trade was literally the business of “the butcher, the baker, and the candlestick maker.”<sup>18</sup>

### **The West Indian Provisioning Trade**

Even this litany does not capture slavery’s importance to the Rhode Island economy. As important as the triangle trade was, it was dwarfed by the bilateral trade between Rhode Island and the slave colonies of the Caribbean. So profitable was sugar in the eighteenth century that most Caribbean colonies produced little else, relying on imports for everything from food to furniture. Rhode Island dominated this trade, operating, in essence, as the commissary of the Atlantic plantation complex. Rhode Island ships cleared for the Caribbean on an almost daily basis, their holds laden with a cornucopia of local products – beef and butter, hay and horses (Narragansett pacers were much prized by Caribbean planters), candles, shoes, iron, barrel hoops and staves, timber, tar, tobacco, and vast quantities of salt cod, the staple protein source of

West Indian slaves. (Rhode Islanders sometimes referred to cod as “Jamaica fish,” reflecting a clear understanding of the commodity’s destination.) Between the transatlantic slave trade and the West Indian provisioning trade, it is hard to imagine any eighteenth century Rhode Islander whose livelihood was not entangled, directly or indirectly, with slavery.<sup>19</sup>

### **Slavery and the Coming of the American Revolution**

Rhode Island’s dependence on slavery was vividly revealed in 1764, the year that saw the founding of the College of Rhode Island and the onset of the imperial crisis between Britain and its thirteen mainland colonies. The Seven Years War between Britain and France had just ended, and the British Parliament, facing a large deficit, announced its intention to begin collecting a duty, previously unenforced, on imported sugar and molasses. The result, as every American schoolchild learns, was a wave of protests against “taxation without representation,” culminating in the colonies’ declaration of independence in 1776. Rhode Islanders stood in the van of the struggle, drafting the first formal protest to the new duties, a “Remonstrance” that was personally carried to London by Stephen Hopkins, the colony’s governor and chancellor of the new college. The Rhode Island Remonstrance is rightly remembered as a watershed in the coming of the American Revolution, yet the document itself spoke less of liberty than of slavery. The proposed tax, the authors warned, would cripple the Rhode Island economy, destroying not only the Caribbean provisioning trade but also the burgeoning African slave trade. “[W]ithout this trade, it would have been and will always be, utterly impossible for the inhabitants of this colony to subsist themselves, or to pay for any considerable quantity of British goods,” the document concluded.<sup>20</sup>



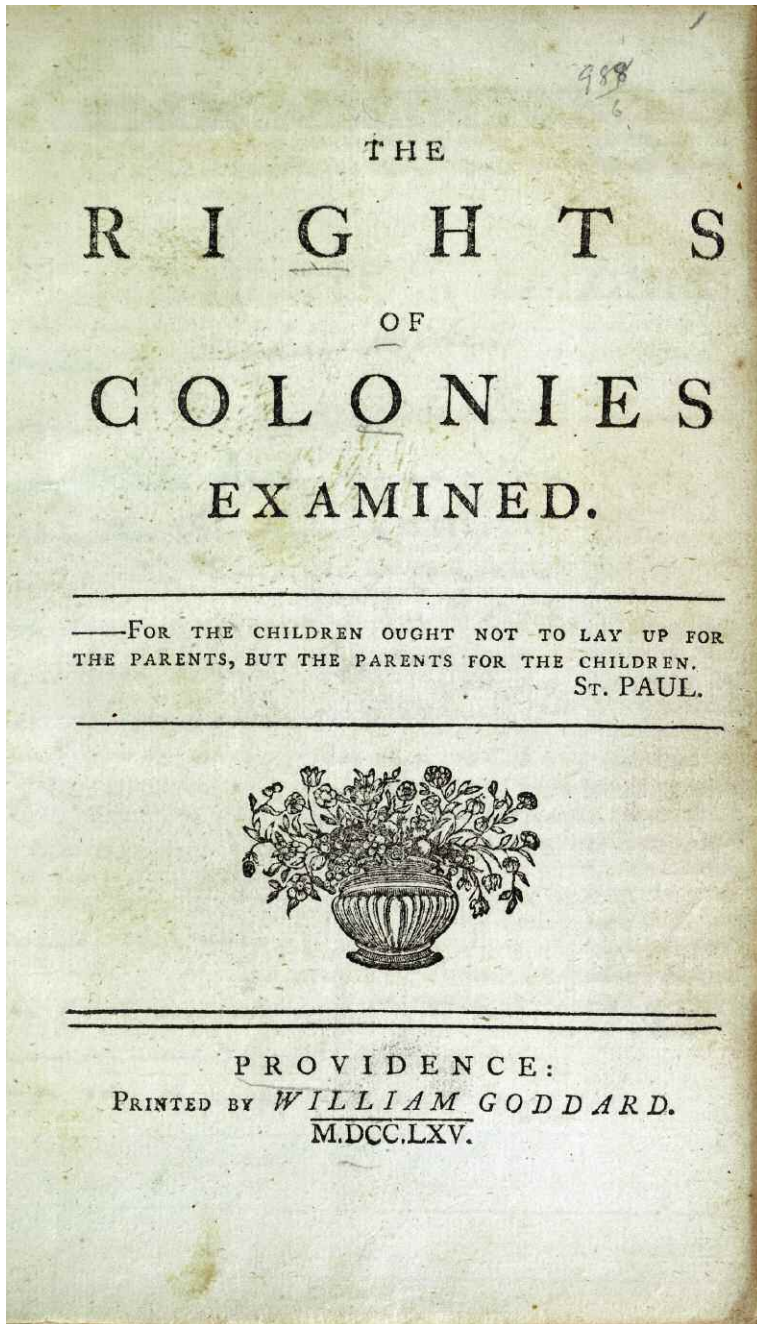
*“Liberty is the greatest blessing that men enjoy, and slavery is the heaviest curse that human nature is capable of,” Governor Hopkins wrote, adding that “those who are governed at the will of another, and whose property may be taken from them...without their consent...are in the miserable condition of slaves.” The Brown brothers forwarded a copy of the pamphlet to the governor’s brother, Esek, who was then on the coast of Africa aboard the Sally.*

The Rhode Island Remonstrance encapsulated the great paradox of American history, avowing principles of liberty and self-government while simultaneously defending Americans’ right to profit from slavery and the slave trade. The paradox was even more pointed in Stephen Hopkins’s *The Rights of Colonies Examined*, one of the most influential pamphlets of the revolutionary era, published a few months later. Sounding a note that would be endlessly repeated over the next twelve years, Hopkins denounced the new tax not simply as an assault on colonists’ rights but as an attempt to reduce them to slavery. “Liberty is the greatest blessing that men enjoy, and slavery is the heaviest curse that human nature is capable of,” he wrote, adding that “those who are governed at the will of another, and whose property may be taken from them...without their consent...are in the miserable condition of slaves.” Hopkins, who was a slave-owner at the time, evidently saw no irony in advancing this argument. Nor did the Brown brothers, who forwarded a copy of the pamphlet – “for your amusement” – to the governor’s brother, Esek, who was then on the coast of Africa aboard the slave ship *Sally*.<sup>21</sup>

### **The Founding of Brown University**

This was the world into which Brown University was born. The nation’s seventh oldest university, Brown was formally chartered in 1764 as the College of Rhode Island. Its initial mission was to train Baptist clergymen, though it was open to students of all religious persuasions, in keeping with Rhode Island’s tradition of religious liberty. The school’s founding documents contain no references to slavery, which most at the time regarded simply as a fact of life, irrelevant to the University’s mission. If any contemporaries were surprised or troubled when the school’s first president, Rev. James Manning, arrived in Rhode Island accompanied by a personal slave, they seem never to have said so publicly. (Manning manumitted the man in 1770, shortly before the college moved to its current site in Providence.) And while the religious composition of the college’s governing Corporation generated controversy – Baptists were eventually guaranteed a majority of seats on both the Board of Fellows and the Board of Trustees, with smaller allocations for Congregationalists, Anglicans, and Quakers – the presence of slave traders among the group occasioned no discussion. While no precise accounting is possible, the steering committee was able to identify approximately thirty members of the Brown Corporation who owned or captained slave ships, many of whom were involved in the trade during their years of service to the University.<sup>22</sup>

Slavery’s role in Brown’s early history is revealed more palpably in the College Edifice, what we today call University Hall, the oldest building on campus. As University curator Robert Emlen explained in a presentation sponsored by the steering committee, the construction of the building was financed through a public subscription campaign. With hard money in short supply, many donors paid their pledges in kind. Wood for the building, for example, appears to have been donated by Lopez and Rivera, one of the largest slave trading firms in Newport. A few donors honored pledges by providing the labor of their slaves for a set number of days. Emlen has found evidence of four enslaved men who labored on the building, including “Pero,” the bondsman of



*Stephen Hopkins's The Rights of Colonies Examined, a germinal text in the struggle for American independence.*

Henry Paget, “Mary Young’s Negro Man,” “Earle’s Negro,” and “Abraham,” apparently the slave of Martha Smith. Pero Paget, who was 62 years old at the time, is buried in Providence’s North Burial Ground; the circumstances and fate of the others remain unclear. A facsimile print of the construction records, including references to enslaved workers, has hung for years on the first floor of University Hall, more or less unnoticed. It is an apt metaphor for a history that has long hidden in plain sight.<sup>23</sup>

### **Endowing the University**

Determining what percentage of the money that founded Brown is traceable to slavery is impossible; part of the point of the preceding discussion is that slavery was not a distinct enterprise but rather an institution that permeated every aspect of social and economic life in Rhode Island, the Americas, and indeed the Atlantic World. But there is no question that many of the assets that underwrote the University’s creation and growth derived, directly and indirectly, from slavery and the slave trade. Links with slavery are particularly apparent in the University’s first endowment campaign, which the governing Corporation launched in the late 1760s. The task of raising an endowment was assigned to Morgan Edwards and Hezekiah Smith, both Baptist ministers and members of the Corporation. Edwards sailed to Britain, where, despite the escalating imperial conflict, he succeeded in raising nearly nine hundred British pounds sterling, the equivalent of more than \$150,000 in today’s money. Smith sailed to Charleston, South Carolina, where over the course of several months he secured pledges for more than £3,700 Carolina pounds, the equivalent of about \$50,000 today.<sup>24</sup>

In the present context, Smith’s destination is the pertinent one, for South Carolina was the heartland not only of the Baptist religion but also of American slavery. Even a cursory glance at Smith’s subscription book, which is deposited in the archives of the Rhode Island Historical Society, leaves little doubt of the origins of the money that he raised. There are literally hundreds of examples, but let us mention only a few. Lieutenant

Governor William Bull, the first name on the list, owned a three-thousand-acre rice and indigo plantation on St. Helena Island. He donated £50.

*Henry Laurens, who would later succeed John Hancock as president of the Continental Congress, ran the largest slave trading house in North America. In the 1750s alone, his Charleston firm oversaw the sale of more than 8,000 enslaved Africans. He donated £50 to the endowment campaign.*

Hancock as president of the Continental Congress, ran the largest slave trading house in North America. In the 1750s alone, his firm, Austin and Laurens, handled the sales of more than eight thousand Africans. Laurens donated £50 to the College of Rhode Island.<sup>25</sup>

### **The Brown Family and Slavery**

In its research, the committee paid particular attention to the University's namesake family, the Browns of Providence. There is an obvious risk of distortion in focusing on a single family, especially when discussing an institution as pervasive as slavery, but the history of the University is so densely interwoven with the life of this extraordinary family that it is impossible to discuss one without the other. At the time of the College of Rhode Island's founding, there were four Brown brothers, Nicholas, Joseph, John, and Moses, all of whom were enthusiastic supporters of the school. Nicholas was one of the college's original incorporators, while Moses led the campaign to move the campus to Providence. Joseph, an amateur architect, designed the College Edifice and later served on the faculty as professor of natural philosophy. John laid the cornerstone of the College Edifice and served as treasurer of the Corporation from 1775

Gabriel Manigault, a merchant and planter who owned more than forty-thousand acres and nearly five hundred slaves, donated £100. Manigault was well known to Rhode Island's mercantile elite, having handled the sale of the first enslaved Africans brought to South Carolina on Rhode Island ships. Henry Laurens, a planter and political leader who would later succeed John

until 1796, when he was succeeded by his nephew, Nicholas Jr., who retained the office until 1825. A member of the Class of 1786, Nicholas Jr. was unquestionably Brown's most generous benefactor, providing the money for several of the buildings that still line the University's main green. In 1804, Nicholas Jr. donated \$5,000 to endow a professorship in rhetoric, in acknowledgment of which the name of the school was changed from the College of Rhode Island to Brown University. This tradition of service was carried into future generations by such people as John Brown Francis, Moses Brown Ives, and John Carter Brown, all of whom gave generously to the University of their time and fortunes.<sup>26</sup>

There are at least two other reasons to focus on the family. First, the Browns kept the most meticulous records of any mercantile firm in colonial America, virtually all of which are preserved in the John Carter Brown Library on the University campus. These records, more than a quarter million manuscript pages, make it possible to trace the family's activities, including its involvement with slavery and slave trading, with rare precision. Second and more important, the Brown family publicly split over the question of slavery in the late eighteenth century, with two brothers, Moses and John, conducting a vigorous debate over the morality of the institution, and of the transatlantic trade in particular. Examining this debate, which engulfed the campus and ultimately the nation, provides an ideal vantage on the emergence and evolution of the American anti-slavery movement, as well as on the arguments of those who defended the institution and trade.<sup>27</sup>

Like other members of their class, the Browns were slaveowners. There are records of Captain James Brown, the brothers' father, purchasing slaves as early as 1728, and he left four slaves in his estate upon his death in 1739. By the early 1770s, the brothers owned at least fourteen slaves, several of them in common. Moses, who in 1773 became the first of the brothers to renounce slaveholding, seems to have held the largest number, owning six slaves outright, as well as a quarter interest in several others. Most of the men and women owned by the

Providence March 11. 1765

This day agreed with Nicholas Brown & Comp<sup>y</sup>. to purchase for them  
 Forty Horses that are in good Case fitt for the Suranam Markett  
 which I am to purchase for them on the West Term, I can the whole  
 not amounting to more then One Hundred and Eighty pounds  
 Lawfull Money and are to be all delivered to them by the Twentieth  
 day of April next & said Browns are to pay for them at whatever  
 prices I purchase them at (not Exceeding £180. as aforesaid for  
 the whole) in Rum Sugar Molasses and one Negro for at the  
 Best prices I may procure for them in the purchase of said  
 Horses, as also to pay me at the Rate of Six Shilling daupier  
 Money of day for my time and Trouble in Selling these articles  
 and purchasing the Horses and they to bear my Expences in  
 doing the whole Business as witness my hand

Isaac Tripp

P.S. None of the Horses to be more then fourteen Hands High

The economy of colonial Rhode Island depended on the provisioning trade with the plantation colonies of the Caribbean. In 1765, the Brown brothers contracted Isaac Tripp, a local merchant, to acquire forty horses “fitt for the Suranam Markett” on their behalf, for a sum not exceeding £180. With money in short supply, the brothers paid for the horses in goods, including rum, sugar, molasses and “one Negro Garl.”

brothers worked as domestic and agricultural laborers, though they were also periodically deployed in other Brown enterprises, including the family’s whale oil candle works, a seasonal business in which labor demands rose and fell quickly. Moses’s decision to manumit his slaves disrupted this arrangement, but the brothers eventually negotiated an agreement in which he supplied his quota of laborers to the chandlery in free workers.<sup>28</sup>

### The Browns and the Slave Trade

By the standards of Rhode Island’s mercantile elite, the Browns were not major slave traders, but they were not strangers to the business either. In 1736, James Brown sent a ship, the *Mary*, to Africa. The first slave ship to sail from Providence, the *Mary* carried a cargo of enslaved Africans to the West Indies, returning to Rhode Island with several slaves for the family’s own use. James’s younger brother, Obadiah, who became the four brothers’ guardian after James’s early death, served as supercargo on the voyage, the officer in charge of buying and selling captives. For reasons that remain unexplained, the Browns waited more than twenty years before mounting another African voyage. In the interim, the family was involved in small-scale slave trading – purchasing or selling captives individually or in

small lots, usually in the context of provisioning voyages. In 1758, for example, the sloop *Speedwell* sailed to the French port of New Orleans with a cargo of candles, wine, and ten slaves, along with a single French prisoner. (Prisoner exchanges under “flags of truce” were a ruse used by Rhode Islanders to evade British restrictions on trading with the enemy.) According to records from the voyage, seven of the slaves were sold at auction, while two were given as “presents” to local officials. The fate of the tenth captive is unclear.<sup>29</sup>

In 1759, the family returned to the African trade, when Obadiah, Nicholas, and John, along with a handful of smaller investors, dispatched a rum-laden schooner, the *Wheel of Fortune*, to Africa. With war raging between Britain and France, it was a risky venture and it ended in failure. The ship arrived safely on the African coast, but it was subsequently captured by a French privateer. While Obadiah had taken the precaution of insuring the voyage, the loss of the ship still represented a substantial financial setback for the family. For the enslaved Africans on board, the capture of the ship likely made no difference, as they would simply have been carried to the French West Indies and sold there.<sup>30</sup>

With the restoration of peace in 1763, the Browns decided to return to the African trade. (Obadiah had died the year before, leaving the family business in the hands of the four brothers, trading under the name Nicholas Brown and Company.) The North American economy was in the doldrums, and the brothers needed capital to buy supplies for their candle works, as well as for their newest venture, an iron furnace. With slave labor in high demand throughout the Americas, an African voyage promised a quick and substantial profit. The brothers initially planned a joint venture with Carter Braxton, a Virginia merchant and later signer of the Declaration of Independence, but in the end they elected to proceed by themselves. The result was the voyage of the *Sally*.<sup>31</sup>

*The merchant apologized for the low prices realized at the auction, which he attributed to the captives' "very Indifferent" quality. "[H]ad the negroes been young + Healthy I should have been able to sell them pretty well," he wrote. "I make no doubt if you was to try this market again with Good Slaves I Should be able to give you Satisfaction."*

#### **The Slave Ship *Sally*, 1764–65**

The *Sally* sailed from Providence in 1764, the year of Brown's founding. The ship carried the standard African cargo, including spermaceti candles, tobacco, onions, and 17,274 gallons of New England rum. It also carried an assortment of chains, shackles, swivel guns, and small arms to control the human cargo to come. In their letter of instructions, the Brown brothers ordered the ship's master, Esek Hopkins, to make his passage to the Windward Coast of Africa, to exchange his goods for slaves, and to sell those slaves to best advantage in the West Indies. They also asked him to bring "four likely young slaves," boys of fifteen years or younger, back to Providence for the family's own use.<sup>32</sup>

The voyage was a disaster in every conceivable sense. Many other merchants had the same idea

as the Browns, and Hopkins found the West African coast crowded with slavers, including more than two-dozen ships from Rhode Island. The market for rum was glutted and captives were scarce and expensive. Hopkins eventually acquired a cargo of 196 Africans, but it took him more than nine months to do so, an exceptionally long time for a slave ship to remain on the African coast, especially for those confined below decks. By the time the *Sally* set sail for the West Indies, nineteen Africans had already died, including several children and one woman who "hanged her Self between Decks." A twentieth captive, also a woman, was left for dead on the day the ship sailed.<sup>33</sup>

The toll continued to mount on the return journey. Four more Africans – one woman and three children – died in the first week at sea. On the eighth day out, the captives rose in rebellion, a fact noted in a terse entry in the ship's account book: "Slaves Rose on us was obliged fire on them and Destroyed Eight and Several more wounded badly 1 Thye and ones Ribs broke." In the weeks that followed, death was an almost daily occurrence; according to Hopkins, the captives became "so Despireted" after the failed insurrection "that Some Drowned themselves Some Starved and others Sickened & Dyed." In all, sixty-eight Africans perished during the crossing, each loss carefully recorded in the account book. Another twenty Africans died in the days after the ship reached the West Indies, bringing the total death toll to 108. (A 109th captive, one of the four "likely lads" requested by the Brown brothers, died en route to Providence.) The survivors, auctioned in Antigua, were so sickly and emaciated that they commanded prices as low as £5 apiece, scarcely one-tenth of the prevailing price for a "prime" slave. The poor returns on the voyage prompted an apologetic letter from the merchant who handled some of the sales. "I am truly Sorry for the Bad Voyage you [had]," he wrote. "[H]ad the negroes been young + Healthy I should have been able to sell them pretty well. I make no doubt if you was to try this market again with Good Slaves I Should be able to give you Satisfaction."<sup>34</sup>

### **Aftermath of the *Sally***

The Browns did not avail themselves of the offer. In the wake of the *Sally* debacle, three of the four brothers – Nicholas, Joseph, and Moses – withdrew from direct participation in the transatlantic slave trade. Their action appears to have been motivated more by economic than moral qualms: After two failed voyages, they had good reason to believe that slave trading was too risky an investment. There was little evidence of remorse in the letter they sent to Esek Hopkins after learning of the disaster: “[W]e need not mention how Disagreeable the Nuse of your Lusing 3 of yr. Hands and 88 Slaves is to us + all your Friends, but your Self Continuing in Helth is so grate Satisfaction to us, that we Remain Cheerful under the Heavey Loss of our Int[erest]s.” Nor did the experience deter the three brothers from continuing to trade in slave-produced goods, from building a state-of-the-art rum distillery, or from supplying other Rhode Island merchants mounting African voyages.<sup>35</sup>

One such merchant was their brother John. In 1769, John and two partners dispatched a slave ship, the *Sutton*, to Africa. John’s determination to continue slaving unnerved his more cautious brothers, and contributed to their decision to dissolve their partnership. “[W]hoever plays any Game ... [and] plays the last for the value of the whole gain of the preceding many, will sooner or later lose the whole at one throw,” Moses warned in a 1770 letter to Nicholas and Joseph. While the brothers continued to collaborate on various ventures, most of John’s subsequent trading activities were conducted independently or in partnership with his son-in-law, John Francis. Over the next quarter century, John would sponsor at least three more African slaving voyages.<sup>36</sup>

### **The Rise of the Anti-Slavery Movement**

While the Brown brothers’ apparent failure to reflect deeply about the *Sally* disaster seems surprising today, it was characteristic of their era and social class. For most Rhode Island merchants in

the 1760s, buying and selling Africans was simply a business – just another species of commerce, though one entailing unusually large risks and rewards. Yet these years also saw the beginnings of a movement to abolish the slave trade, a swelling chorus of voices decrying the transatlantic traffic not simply as cruel and impolitic but as criminal, a violation of the fundamental laws of man and God. The influence of this movement would be felt all across the Atlantic World, nowhere more dramatically than in Rhode Island.

In Rhode Island, as in much of the Anglo-American world, political opposition to slavery was initially synonymous with the Society of Friends, or Quakers. Founded in England in the seventeenth century, Quakerism was a radically egalitarian creed, which preached that every individual could experience the indwelling presence of God, regardless of the circumstances of his or her birth. Such convictions led many in the Society to question the morality of slavery and slave trading. In 1760, the Yearly Meeting in Newport adopted one of the first anti-slave trade resolutions in American history, calling on members “to avoid being in any way concerned in reaping the unrighteous profits of that unrighteous practice of dealing in Negroes and other slaves – in direct violation of the gospel rule which teaches every one to do as he would be done by.” Initially, Rhode Island Quakers stopped short of renouncing slavery itself, merely enjoining members to treat their bondsmen “with tenderness,” including the provision of education and religious instruction for the young. But in 1773, they took this additional step, enjoining all Friends to manumit their slaves or face expulsion from the Society.<sup>37</sup>

By the time the Quakers finally acted, their once lonely crusade showed signs of becoming a substantial movement. As historian David B. Davis has written, “By the eve of the American Revolution there was a remarkable convergence of cultural and intellectual developments which at once undercut traditional rationalizations for slavery and offered new modes of sensibility for identifying with its victims.” The process clearly had something to do with capitalism: As free labor became more

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## Stores

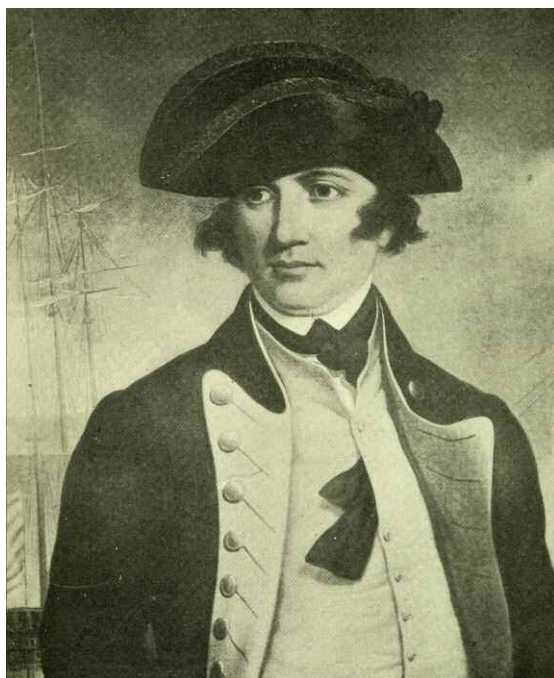
6 bbl. Tarr	£18
a Doctors Chest about,	300
3 bbl. Rosin a £30	90
7 1/2 bbl. Oil	35
60. or 70. Sallow and a 20/	70
28 lb Swine fat a £3	84
7 Swivel Guns	300
1 Cask powder 7c	100
Swivel Shot, Grape Shot & small	50
arm ditto	
1 cwt Lead	38
40 hand Cuffs & 40 Shacks a 35/ 40/	150
3 Chanes & <del>100</del> 100 w. of spikes	170
Deb nails	
4 bbl. Beans & peas	100
24 bbl. Beef a £70	1680
22 bbl. port a £110	2420
10 bbl. menhadene a £15	150
30 c Bread a £24	720
8 white oak plank for 2. & 4. Sirey	100
20 Shaken wh. & white oak, £10	200
10 ditto with heads	11
12 Ganz Cash a £8	96
13 Iron Round Butts a £20	260
1 Red oak water wh.	8 1/2
2 pp pistols a £25	50
8 Small Arms a £30	240
13 Cutlasses a £4	52
2 Doz feeder pails a £21	42
Wooden Boles, Lines, Hooks sail	
needles, Nails Hammess & c	400
1 Bolt Tichlenburg 121 Ells a 38/	250
4 Bolts Shoushie Ducks a £25	500
1/8 Bolt Ravins Ducks	70
a newfable wherssers 3 Boy Ropes and	
Sundry other Riggins w. 30c a 95.	2850
a New Boat 22 feet long Sails & all	
to her belonging, Anchor &	1050
a Small New Boat	285
one New Anchor 29 1/4 a 19/	191 1/2
Sundry Iron work, Not mentions above	250
Coopers & Carpenters Tools	120
4 bbl. Vinegar, 4 bbl. Selt, 150 Brick, & 200	150
1 cask Red Oak	30
1 Load wood	
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common, other labor relations – indentured servitude, debt bondage, slavery – came increasingly to appear antiquated and anomalous. Enlightenment ideas about human equality and shared human nature also played an important part in this process, as did the rapid growth of evangelical Christianity. The Revolution itself was an important catalyst to anti-slavery thought. With American colonists declaring their beliefs in “liberty” and “natural rights” and denouncing a British plot to “enslave” them, it is not surprising that some were moved to question the plight of those whom the colonists themselves enslaved.<sup>38</sup>

The result, on both sides of the Atlantic, was an outpouring of petitions, pamphlets, and treatises denouncing slavery and the transatlantic trade on both secular and sacred grounds. Some of the most moving statements were written by black people, who knew firsthand the horrors of slavery and the slave trade. In 1773, for example, officials in Massachusetts entertained a petition from four slaves requesting facilities to purchase their freedom, after which they proposed to resettle in Africa. “The efforts by the legislature of this province in their last session to free themselves from slavery, gave us, who are in that deplorable state, a high degree of satisfaction,” the men wrote, with more than a hint of sarcasm. “We expect great things from men who have made such a noble stand against the designs of their fellow-men to enslave them.” In the years that followed, similar petitions emanated from black organizations all along the eastern seaboard, including Newport’s Free African Union Society, the nation’s first black mutual aid association, and its sister body, the Providence African Society.<sup>39</sup>

*Inventory of stores loaded onto the Sally, September, 1764. The list includes implements needed to control the anticipated cargo, including seven swivel guns, various small arms, gunpowder, chains, and “40 hand Cuffs & 40 Shacksels.”*

*Esek Hopkins,  
master of the slave  
ship Sally and  
later the first  
commander-in-  
chief of the United  
States Navy.  
Portrait by Martin  
Johnson Heade.*



Perhaps the most influential of these early anti-slavery essays was *Thoughts upon Slavery*, published in 1774 by John Wesley, the founder of Methodism. First printed in London, the pamphlet was immediately reprinted in Philadelphia and widely circulated in American periodicals, including the *Providence Gazette*. For Wesley, the transatlantic slave trade was not merely an affront to Christian principles and “the plain law of nature and reason,” but also what future generations would call a crime against humanity – an offense so grievous that it diminished all humankind, not merely its immediate victims and perpetrators. “If this trade admits of a moral or a rational justification,” Wesley wrote, “every crime, even the most atrocious, may be justified.”<sup>40</sup>

### **The Conversion of Moses Brown**

The appearance of Wesley’s *Thoughts Upon Slavery* and other anti-slavery essays in the Providence press was almost certainly the work of Moses Brown. In 1773, Moses experienced a severe emotional and spiritual crisis, brought on by the death of his wife, Anna. He withdrew from the family business and deepened his involvement with the Quakers, with whom he had begun to worship

during Anna’s illness. (He was formally accepted into Quaker meeting in 1774.) He also renounced slavery. “I saw my slaves with my spiritual eyes as plainly as I see you now,” he recalled near the end of his life, “and it was given to me as clearly to understand that the sacrifice that was called for of my hand was to give them liberty.” On November 10, 1773, Brown gathered family and friends together and read a formal deed of manumission: “Whereas I am clearly convinced that the buying and selling of men of what color soever is contrary to the Divine Mind manifest in the conscience of all men however some may smother and neglect its reprovings, and being also made sensible that the holding of negroes in slavery however kindly treated has a tendency to encourage the iniquitous practice of importing them from their native country and is contrary to that justice, mercy, and humanity enjoined as the duty of every christian, I do therefore by these presents for myself, my heirs etc. manumit and set free the following negroes being all I am possessed of or any ways interested in.”<sup>41</sup>

In the years that followed, Moses Brown threw himself into the anti-slavery movement, exhibiting the same energy and entrepreneurial imagination he had exhibited as a businessman. He exchanged letters with a network of anti-slavery correspondents in Britain and the Americas, circulating the latest anti-slavery essays and pamphlets, many of which he paid to have published. He intervened in court cases involving black people held illegally in bondage, and lobbied friends and neighbors to divest themselves of slavery and the “unrighteous traffic” that sustained it. As a contemporary remarked, the memory of the *Sally* weighed “heavy on his conscience.” In a 1783 letter to John Clark and Joseph Nightingale, Providence merchants who were rumored to be contemplating sending a ship to Africa, Brown recounted his experience and urged his friends not to repeat his mistake. Had the *Sally* never sailed, he wrote, “I should have been preserved from an Evil, which has given me the most uneasiness, and has left the greatest impression and



stain upon my own mind of any, if not all my other Conduct in life. . . .” Clark and Nightingale, both members of the Corporation of the College of Rhode Island, chose not to heed the advice, dispatching a ship, the *Prudence*, to Africa in 1784.<sup>42</sup>

### **Anti-Slavery Legislation and Its Limitations**

Brown also lobbied for anti-slavery legislation. His efforts met with mixed success. In 1774, the Rhode Island Assembly passed a bill that he had helped to draft prohibiting the direct importation of slaves from Africa into the colony, though only after weakening it with various loopholes and exceptions. A 1775 bill for the gradual abolition of slavery in the colony was defeated. In 1784, with the Revolutionary War over and the transatlantic trade stirring back to life, anti-slavery activists returned to the Assembly, presenting a bill to abolish slavery in the state and to end Rhode Island’s participation in the transatlantic slave trade. The second proposal proved the more controversial. After a bruising battle, the Assembly enacted Rhode Island’s 1784 Gradual Abolition Act, but it refused to act against the slave trade. “[T]he influence of the Mercantile interest in the House was greatly Exerted,” Brown lamented, “and the Justice of the Subject thereby Overbourn. . . .” In 1787, following state elections and a turnover in the composition of the legislature, the prohibition against slave trading was finally adopted. The victory buoyed Brown, but it soon became apparent that little had changed. While the statute prescribed severe penalties for Rhode Islanders who continued to trade in slaves, state officials had neither the will nor the resources to prosecute offenders. After a brief decline in the traffic, the procession of ships to Africa resumed.<sup>43</sup>

Recognizing the limitations of the state law, Moses Brown and his anti-slavery allies also pressed for federal legislation. While the recently adopted federal Constitution forbade Congress from interfering with the slave trade into U.S. ports for twenty years – that is, until 1807 – it did not preclude legislation prohibiting Americans

from trafficking slaves to foreign ports, a fact that Brown confirmed in a personal interview with the Constitution’s chief author, James Madison. The result was a pair of federal anti-slave trade acts, the first in 1794, the second in 1800, which forbade American citizens from owning, outfitting, investing in, or serving aboard ships carrying slaves to ports outside the United States. But these laws were also ignored by slave traders, nowhere more flagrantly than in Rhode Island.<sup>44</sup>

### **Debating the Trade**

Moses Brown’s campaign against the slave trade brought him into conflict with many of his friends and former business associates. His chief antagonist was his older brother, John, who emerged as the slave trade’s most vocal defender even as Moses became its most vocal critic. The battle between the brothers first emerged publicly in 1784, when John, representing Providence in the state legislature, led the opposition to the anti-slave trade bill promoted by Moses. The dispute intensified the following year, when John mounted an African slaving voyage, his first since before the Revolution. In an extraordinary series of private letters, the brothers debated the morality of the trade, with Moses urging John to search his conscience and John assuring him that he had done so and found no cause for concern. If Moses’s pleas illuminate the convictions of the emerging abolitionist movement, John’s replies offer a catalogue of contemporary justifications of slavery and slave trading: that black people were an inferior race, incapable of surviving as free people; that slaves were “positively better of[f]” in America, where they were exposed to Christianity and civilization, than they had previously been in Africa; that the slave trade was the most lucrative commerce in the world, the profits of which should flow into American rather than British coffers. This trade “has been permitted by the Supreme Governour of all things for time Immemorial, and whenever I am Convinced as you are, that its Rong in the Sight of God, I will Immediately Dessist,” John wrote in November 1786, “but while its not only allowd by the Supreme Governour of all States but by all the Nations of

Europe...I cannot thinke this State ought to Decline the trade." A few days later, he dispatched another ship, the brig *Providence*, to the Gold Coast, where it acquired 88 Africans, 72 of whom survived to be sold in Hispaniola.<sup>45</sup>

The conflict between the brothers escalated in 1789, following the establishment by Moses and other anti-slavery activists of a new organization, the Providence Society for Promoting the Abolition of Slavery, for the relief of Persons unlawfully held in Bondage, and for Improving the Conditions

of the African Race.

As its lengthy title suggests, the new society had several purposes, but its primary object was to bring prosecutions against violators of the state's recent anti-slave trade law. The announcement of the society's existence ignited one of the most vituperative political debates in Rhode Island history.

John Brown, writing under the pen name "A Citizen," launched a furious

counterattack in the local press, denouncing the society's founders as religious fanatics and thieves, scheming to impose their personal morality and to "deprive their fellow citizens of their lawful property." For the next three months, the columns of the *Providence Gazette* and the *United States Chronicle* resounded with increasingly personal and abusive exchanges between Brown and leaders of the Abolition Society, with Moses, who signed himself

"A Friend," seeking to mediate. Both sides invoked the authority of the American Revolution, with abolitionists citing the Declaration of Independence's promises of life, liberty, and the pursuit of happiness and John Brown emphasizing the sanctity of property rights. Trafficking Negroes was "right, just and lawful," John insisted, adding: "[I]n my opinion there is no more crime in bringing off a cargo of slaves than in bringing off a cargo of jackasses."<sup>46</sup>

### The College Corporation and the Slave Trade

The struggle to abolish the slave trade was not simply a battle between brothers. The dispute divided the entire state, including the fellows and trustees of the College of Rhode Island. Many of the founders of the Providence Abolition Society were members of the college's governing Corporation. David Howell, the society's president, had been affiliated with the college since its establishment, serving as tutor, professor, and fellow. (In the early 1790s, he would serve briefly as the school's interim president.) Thomas Arnold, secretary of the society, also had close ties to the college, having served as secretary of the Corporation. At the same time, the college's governors included several practitioners and defenders of the slave trade, led by the vocal John Brown, the school's treasurer. The very first prosecution launched by the Providence Abolition Society in 1789 pitted members of the Corporation against one another – Howell, who read the charge on behalf of the prosecution, and William Bradford, one of the attorneys for the defense. Bradford, a former deputy governor and future U.S. Senator, had a personal interest in the outcome, being the father-in-law of two of the state's largest slave traders, James D'Wolf and Charles Collins.<sup>47</sup>

The conflict within the college's governing Corporation erupted anew following passage of the 1794 federal law prohibiting the carrying of slaves to foreign ports. In 1796, the Providence Abolition Society brought a case against Cyprian Sterry, a member of the College of Rhode Island's Board of Trustees and Providence's premier slave trader. In

*Slave trading "has beene permitted by the Supreeme Governour of all things for time Immemorial," John reminded his brother, adding: "[W]henever I am Convinced as you are, that its Rong in the Sight of God, I will Immediately Dessist, but while its not only allowd by the Supreeme Governour of all States but by all the Nations of Europe... I cannot thinke this State ought to Decline the trade." A few days later, he dispatched another ship, the brig Providence, to the Gold Coast.*

**The inhabitants of Rhode Island, especially those of Newport, have had by far the greatest share of this traffic of all these United States. This trade in the human species has been the first wheel of commerce in Newport, on which every other movement in business has chiefly depended. That town has been built up, and flourished in times past, at the expense of the blood, the liberty, and the happiness of the poor Africans; and the inhabitants have lived on this, and by it have gotten most of their wealth and riches.**

Rev. Samuel Hopkins, *Providence Gazette*, 1787

**Clearly, the North outstripped the South economically because its economy was based on freedom and innovation, not slavery.**

"The Reparations Scam," *Providence Journal*, August 21, 2002

the preceding two years alone, Sterry had sponsored some twenty African voyages. Many of the Africans carried on these ships were sold in the Caribbean, in clear violation of the recent federal statute. Facing a potentially ruinous fine, Sterry settled the case out of court, pledging to leave the trade in exchange for the society withdrawing the prosecution. He remained a member of the Board of Trustees for another seventeen years.<sup>48</sup>

### **The Trial of John Brown**

Things did not go so smoothly with John Brown, the College of Rhode Island's treasurer and one of its chief benefactors. In 1795, Brown returned to the African trade, dispatching a ship, the *Hope*, to the Gold Coast. The voyage proved a profitable one: Of the 229 Africans loaded onto the ship, 198 survived to be sold in Cuba. The Providence Abolition Society responded by bringing a prosecution. A distraught Moses Brown urged his brother to settle the case, but John, "puffed up" by the slave-trading interests of Newport, refused. Thus did John Brown become the first Rhode

Islander, and apparently the first American, prosecuted in federal court for illegal slave trading – a prosecution brought, in part, by his own brother.<sup>49</sup>

The case ended in a devastating defeat for anti-slavery forces. Though the offending ship was impounded, John Brown triumphed in the ensuing jury trial, emerging with an acquittal and a judgment for costs against the Providence Abolition Society. Because the transcript of the trial has not survived, it is difficult to say precisely what happened, but Moses Brown attributed the verdict to the "*Peculiar Turn*" of the Newport jury, as well as to other kinds of favoritism "which I forbear to describe." It should be noted that the presiding judge, Benjamin Bourn, and the federal prosecutor, Ray Greene, were both longtime allies of John Brown, with whom they had served on the Corporation of the College of Rhode Island. While neither appears to have been personally involved in the slave trade, both had close family ties to the trading community; Bourn would later have the rare pleasure of dismissing a case against his brother, a leading Newport trader. Whatever the exact circumstances, the trial had a devastating effect on the Providence Abolition Society, which went into a rapid decline.<sup>50</sup>

### **High Tide of the Rhode Island Slave Trade**

The decade between John Brown's acquittal and the 1807 Congressional act abolishing the transatlantic slave trade marked the peak of the Rhode Island slave trade, with as many as fifty ships per year clearing for Africa. The handful of cases brought to trial almost invariably ended in acquittal. Courts occasionally ordered the forfeiture and auctioning of slave ships, but traffickers observed a gentlemen's agreement not to bid on one another's vessels, enabling original owners to repurchase them for as little as \$10. In 1799, an embarrassed federal government tried to close this loophole by dispatching

an official to bid on a confiscated ship in an auction in Bristol. On the evening before the auction, the official was visited by the ship's former owners, James and Charles D'Wolf, accompanied by John Brown, who at the time was one of Rhode Island's

*Kidnapping a federal official was only the most brazen of the Rhode Island slave traders' offenses. A newly appointed U.S. District Attorney, considered overzealous in enforcing the law against slave trading, was assaulted. A Bostonian who had the temerity to bring a prosecution against a Bristol trader – and the courage to come to the city to testify – had his ear sliced off in a local inn.*

representatives in the U.S. Congress. The three tried to intimidate the official into abandoning his charge. The next morning, the official, who had refused to step aside, was abducted by a group of men and bundled on to a waiting ship. (The assailants dressed as Native Americans, a costume presumably intended to recall the garb of the Sons of Liberty during the Boston

Tea Party.) The terrified official was eventually released unharmed, but only after the auction, at which a representative of the D'Wolfs repurchased the ship for a nominal sum. No one was ever prosecuted for the kidnapping, which became something of a local joke.<sup>51</sup>

Kidnapping a federal official was only the most brazen of the slave traders' offenses. A newly appointed U.S. District Attorney, considered overzealous in enforcing the ban on slave trading, was assaulted on the steps of the local courthouse. A Bostonian who had the temerity to bring a prosecution against a Bristol trader – and the courage to come to the city to testify – had his ear sliced off in a local inn. Always a bloody business, the Rhode Island slave trade had devolved by the end of the eighteenth century into a system of violent organized crime, conducted in defiance of state and federal laws, as well as of the era's own professed beliefs about the fundamental rights of human beings.<sup>52</sup>

Like organized crime in our own time, Rhode Island slave traders depended on public officials turning a blind eye. When the U.S. customs inspector in Newport began to show signs of enforcing federal anti-slave trade laws, John Brown successfully steered a bill through the U.S. Congress declaring Bristol a separate customs district, freeing local slave traders of any obligation to put in at Newport for inspection. After further maneuvering, the post of customs inspector in Bristol was awarded to Charles Collins, one of the city's most flagrant illegal traders. Like his brother-in-law, James D'Wolf, Collins routinely trafficked slaves to Cuba, where he reportedly owned a sugar plantation. The creation of the separate customs district, and Collins's appointment as inspector, represented the final triumph of the Rhode Island slave traders. William Ellery Jr., representing Rhode Island in the U.S. Senate, hailed the outcome in a letter to James D'Wolf. "There is now, dear Sir, nothing more to be done for Bristol – everything which she asked is given." Under Collins, prosecutions stopped and the trade out of Bristol flourished, continuing even after the 1807 Congressional act abolishing the transatlantic trade. How many vessels sailed after 1807 is impossible to say, but there is evidence of slave ships being outfitted in Rhode Island as late as 1819.<sup>53</sup>

### **The Slave Trade and Student Life: An Abortive Essay Contest**

Brown University grew up in the shadow of the transatlantic slave trade and of the embryonic movement to end it. What effect these circumstances had on the life of students at the college is difficult to say, but there is some suggestive evidence. In 1786, Moses Brown proposed a prize for the best student essay on the slave trade. The suggestion was clearly inspired by a similar contest staged a year before at Cambridge University in England, which had attracted more than two hundred entrants. The winning essay, Thomas Clarkson's *Essay on the Slavery and Commerce of the Human Species, Particularly the African*, was immediately republished in English (original entries had been written in Latin) and became the bible of the British anti-slavery

movement. Moses Brown obviously did not yet know just how influential Clarkson's essay would become, but he recognized the potential value of such a contest in shaping American public opinion. He also recognized the likelihood of opposition to the proposal. "How much to the Honour of Rhode Island College would it be if Similar Measures as far as its Infant State would admit were pursued," he wrote in a letter to President Manning, "but I am aware that the Corporation has a few members who would be against the Subject receiving the sanction of the College. . . ." Precisely what transpired is not clear, but the contest was never held. Stymied at home, Moses proposed endowing essay prizes at Harvard, Yale, and the College of New Jersey (Princeton). Whether his offer was communicated to officials at the three schools is uncertain, but in any case the contests never occurred.<sup>54</sup>

*In 1786, Brown proposed a prize for the best student essay on the slave trade, an idea clearly inspired by a similar contest staged the year before at Cambridge University in England. "How much to the Honour of Rhode Island College would it be if Similar Measures as far as its Infant State would admit were pursued," he wrote in a letter to President Manning, "but I am aware that the Corporation has a few members who would be against the Subject receiving the sanction of the College. . . ." The contest was never held.*

#### **A Student Commencement Oration**

Despite such setbacks, some students imbibed the ideas of the anti-slavery movement. Indeed, one of the most compelling anti-slavery speeches in American history was delivered by a College of Rhode Island senior, James Tallmadge, at the 1798 commencement ceremony. For Tallmadge, who would later earn renown as one of the leading opponents of slavery in the U.S. House of Representatives, the transatlantic trade was not only "repugnant to the laws of God" but also a patent violation of the

principles of the Declaration of Independence, which explicitly stated "that all men were blessed with equal right and privilege and that *liberty* was the birth right, the Palladium of every individual." In his address, Tallmadge systematically rebutted the arguments advanced by the trade's defenders, some of whom were doubtless sitting in the audience: claims that Africans were "captives of lawful wars"; that they were happier in the United States than in their homes; that the trade was essential to the state's and nation's prosperity, an argument, he noted, that might "with equal propriety" be offered by a thief explaining why "he could not live in affluence without his neighbor's wealth." That Americans at the time could seriously entertain such notions, he added, was a matter "for future generations to investigate."<sup>55</sup>

In his oration, Tallmadge took particular aim at the idea of black racial inferiority, which had already emerged as the primary intellectual justification for slavery. Of all the "specious reasons for importing and holding in bondage the native African," he declared, none was more absurd than the idea "that one who was formed with a dark complexion is inferior to him, who possesses a complexion more light." "Should a thing like this be admitted as general," he continued, "mankind would be at once resolved into an unusual monarchy with some weak puny white-faced creature for the sovereign, and those whose color was furthest removed from white, though a Newton or. . . a Washington would be reduced to the most abject slavery." Such claims, he concluded, could "never be admitted by any except those who are prompted by avarice to encroach upon the *sacred rights* of their *fellow men*, and are vainly endeavoring to appease a corroding conscience."<sup>56</sup>

#### **Southern Students at Brown**

Tallmadge's oration suggests that students at the college grappled with the great political issues swirling around them. It also reminds us that Brown students' penchant for speaking plainly to their elders is nothing new. Yet it is also clear that many students at the college lived quite comfort-

28	To Adam for 13 Days Work at the Well a 3/.	1.. 19..
	To P. Adam & Nat. Allen for Ketching Bricks 1 Day each a 3/.	" 6..
30	To 2 Whids Lime of Otis Whipple	1.. 16..
N <sup>o</sup> 10-	To Henry Paget Esq. for 29 Days Work of Pero & bill a 3/.	4.. 7..
31	To Cash w. Job Indian for his Work in the Well Extra from other work	" 12..
	Hagran <sup>t</sup> 8 Days a 1/6.	" " 9..
Aug 2	To paid Mingow Negro	" 1.. 6
	To 3 pints W. Rum to Simmons for Extraordinary Services.	" 8.. 6
	To 5 Bord of Stones of Jos. Bagley besides the 7 Bord Clw. June 27. a 5/3 for 3 1/2 Bord, #142 Bord a 1/9.	

*Building records for the College Edifice, now known as University Hall, built by public subscription in 1770. A few donors to the project honored their pledges by offering the labor of their slaves, including Pero, a sixty-two-year-old African owned by Henry Paget. The construction crew also included Job, a Native American, and Mingow, apparently a free African.*

ably with the institution of slavery. As the nation's first Baptist college, the school attracted a large number of southern students, many of them from prominent slaveholding families, and there is little evidence to suggest that their years on campus unsettled their beliefs. Probably the most curious examples are John and George Carter, sons of Robert Carter, the wealthiest planter in Virginia. Though to the manor born, Robert Carter had always felt great uneasiness about slavery, feelings that escalated after his conversion to the Baptist faith in the late 1770s. In 1787, he dispatched his young sons to the College of Rhode Island, with orders that they not return to Virginia until after their twenty-first birthdays. His object, as he explained in letters to President James Manning, was to shield the boys from the corrupting influence of slaveholding society until their characters and consciences were more fully formed. Four years later, Carter answered his own conscience, embarking on the largest private manumission in American history. The process, undertaken gradually to minimize opposition from white neighbors, eventually included some five hundred slaves, the majority of whom attained freedom after Carter's death in 1804. But if Carter realized his plans for his

their role as slaveowners, and set about trying to reclaim their inheritance. John Carter was particularly determined to "overturn and frustrate" his father's will, often selling individuals immediately before (and in a few cases after) they became free.<sup>57</sup>

More striking than the presence of southern students on the campus was the procession of New England-born students who headed south after graduation, to earn their fortunes as merchants, lawyers, planters, teachers, and clergymen. The southward migration was facilitated by business links between Rhode Island and the South, as well as by a dense web of family and society ties, particularly with the gentry of South Carolina, many of whose members summered in Newport. Richard James Arnold, who graduated from Brown in 1814, provides a striking example. Arnold was a member of one of Providence's leading anti-slavery families; his uncle, Thomas, was a Quaker and founding secretary of the Providence Abolition Society. But this did not stop him from marrying a southern woman or settling in the South. As his biographers note, Richard Arnold lived a double life, spending half the year in Providence, where he was a respected businessman, and the other half on his plantation in Bryant Country, Georgia, where his large retinue of slaves cultivated rice and cotton. He was also one of the longest-serving

trustees in Brown University history, with a tenure that stretched from 1826 to 1873.<sup>58</sup>

### **The Rise of the Rhode Island Textile Industry**

The commercial ties between Rhode Island and the South that Arnold embodied highlight one last strand in the University's long and tangled relationship with American slavery. One of the tactics that Moses Brown hit upon in his fight against the slave trade was to encourage local manufacturing, in the hope that creating new investment opportunities would wean Rhode Island merchants from the slave trade. Manufacturing success, he suggested, would influence "money'd men of Newport and especially the Guiney traders who disgracefully Continue in the Beaten Track of that inhuman Traffick." In 1789, the same year he founded the Providence Abolition Society, Brown launched a textile manufacturing firm in partnership with his son-in-law, William Almy. A year later, the firm hired Samuel Slater, an English mechanic, who proceeded to build the nation's first water-powered spinning mill on the Blackstone River. The American Industrial Revolution began within a few miles of the Brown campus, and its chief sponsor was Moses Brown.<sup>59</sup>

**Shuttles in the rocking loom of history,  
the dark ships move, the dark ships move,  
their bright ironical names  
like jests of kindness on a murderer's mouth...**

Robert Hayden, *Middle Passage*

Some of Brown's allies were skeptical of his idea that manufacturing might displace the slave trade. "An Ethiopian could as soon change his skin as a Newport merchant could be induced to change so lucrative a trade... for the slow profits of any manufactory," one warned. But there was an even bigger problem. Textile mills spun and wove cotton, a commodity produced almost exclusively by enslaved labor, initially in the West Indies and later

in the American South. In effect, Moses Brown, in seeking to disentangle Rhode Islanders from one aspect of slavery, ensured their more thorough entanglement in another. John Brown, who had long felt the sting of his brother's disapproval, appreciated the irony. "I hope the abolition society will promote our own manufactories; especially the cotton manufactory, for which great experience has accrued and is accruing," he wrote during his 1789 newspaper war with the Providence Abolition Society. "This is most certainly a laudable undertaking, and ought to be encouraged by all; but pause a moment – will it do to import the cotton? It is all raised from the labour of our own blood; the slaves do the work. I can recollect no one place at present from whence the cotton can come, but from the labour of the slaves."<sup>60</sup>

Moses never responded to John's taunt, which seems, in retrospect, to highlight an obvious contradiction. Probably the best that can be said is that he believed, as did most early abolitionists, that slavery was "consequent" upon the trade – that is, that the institution depended on the continued importation of Africans and would naturally wither away once the trade had been stemmed. That belief may have had some validity for the sugar colonies of the Caribbean, where massive mortality required the constant infusion of fresh labor, but it was not true in the United States. With the invention of Eli Whitney's cotton gin in 1793, American slavery gained a spectacular new lease on life. Over the next generation, cotton cultivation spread across the lower Mississippi Valley and as far west as Texas, sustained by an interstate slave trade that could be as inhumane and disruptive of family bonds as the transatlantic trade had been. By the 1850s, cotton was the lifeblood of the American economy, supplying more than sixty percent of the nation's exports and the lion's share of federal government revenues. The total market value of the slaves who produced that cotton exceeded the value of all American banks, railroads, and factories combined.<sup>61</sup>



*In 1758, a group of Rhode Island ship captains found themselves simultaneously in the Dutch Caribbean colony of Surinam and decided to commemorate the occasion by commissioning a portrait. The result was John Greenwood's "Sea Captains Carousing in Surinam," which depicts the men disporting themselves in a tavern amidst ill-clothed African slaves. Of the ten men in the painting who have been identified, six were future trustees of the College of Rhode Island, what is today Brown University. Two became governors of Rhode Island.*

### **Rhode Island and the "Negro Cloth" Industry**

Nowhere was New England's continuing economic dependence on slavery more dramatic than in Rhode Island, which came to rely on the plantation South not only as a source of raw materials but also as a primary market for its goods. Facing mounting competition from larger, more modern mills in Massachusetts, Rhode Island textile manufacturers carved out a niche in the production of "Negro cloth," the cheap cloth sold to southern planters as clothing for slaves. A coarse cotton-wool blend, "Negro cloth" was designed to degrade its wearers – to create (in the words of a South Carolina grand jury) a visible "distinction . . . between the whites and the negroes, calculated to make the latter feel the superiority of the former." But the market was huge, as were the potential profits, and Rhode Islanders seized the opportunity.<sup>62</sup>

The role of northern factories in clothing southern slaves was noted by observers at the time. "[A]s to the clothing of the slaves on the plantations," wrote Frederick Law Olmsted in his famous 1853 travel narrative of the South, "they are said to be furnished by their owners or masters, every year, each with a coat and trousers, of a coarse woolen or woolen and cotton stuff (mostly made, especially for this purpose, in Providence, R.I.)."

The rise of the Cotton Kingdom had a dramatic effect on the New England economy. Nearly three hundred textile firms opened in Rhode Island in the years between 1790 and 1860, ranging from small, short-lived "manufactories" to massive, state-of-the-art mills, with thousands of spindles. Hundreds more mills were built in neighboring Massachusetts and Connecticut. A host of ancillary enterprises grew up in the industry's wake, including machine shops and railroads, banks and insurance companies. Just as the wealth of eighteenth-century New England had flowed from slave-produced sugar, so did the region's vastly enlarged wealth in the nineteenth century flow from slave-produced cotton.



Had Olmsted probed further, he might have noted that Rhode Island manufacturers had also cornered the market for slave blankets, bagging (the sacks used for harvesting cotton), and brogans, the cheap, ill-fitting shoes produced for southern slaves. He might also have noted that the owners of the firms dominating the southern trade included not only old slave-trading families but also several families who had been leading members of the Providence Abolition Society a generation before. Peace Dale Manufacturing Company, for example, the firm that pioneered the Negro cloth trade, was owned by the Hazards, a Quaker family long noted for its opposition to slavery. Like many of Rhode Island's textile manufacturers, the Hazards were major donors to Brown University.<sup>63</sup>

*“I hope the abolition society will promote our own manufactories; especially the cotton manufactory, for which great experience has accrued and is accruing,” John Brown wrote mockingly. “This is most certainly a laudable undertaking, and ought to be encouraged by all; but pause a moment – will it do to import the cotton? It is all raised from the labour of our own blood; the slaves do the work. I can recollect no one place at present from whence the cotton can come, but from the labour of the slaves.”*

### **Abolitionism and Anti-Abolitionism**

Understanding the links between southern slavery and northern manufacturing helps to explain Rhode Islanders' response to the establishment of the American Anti-Slavery Society. Founded in 1833 by William Lloyd Garrison, the society was far more radical than earlier abolitionist movements, insisting not only on the complete abolition of slavery but also on African Americans' right to full American citizenship. The society first came to national prominence in 1835, when it distributed more than a million anti-slavery appeals through the U.S. postal system. The campaign provoked a furious backlash, with northerners and southerners

alike denouncing the abolitionists as irresponsible fanatics bent on racial amalgamation. While Congress responded with a law prohibiting the circulation of abolitionist literature through the mails, mobs burned anti-slavery publications and assaulted abolitionist speakers. One historian has counted more than two hundred anti-abolition mobs in the antebellum period, with 1835 marking the peak of activity.<sup>64</sup>

The rise of the American Anti-Slavery Society provoked intense opposition among business leaders in Rhode Island, who saw the society as a threat not only to social order but also to their livelihoods, which revolved around slave-produced cotton. The appearance of an agent of the society in the state in 1835 prompted a series of public meetings, where state leaders left little doubt about where they stood on the matter of racial equality. Black people were “a race whom nature herself has distinguished by indelible marks, and whom the most zealous asserters of equality admit to be – if not a distinct species – at least a variety of the human species,” participants at an anti-abolition meeting in Newport declared. “Great, therefore, as was the original error of introducing slaves into the country, it would be a far greater error and evil ever to resort to the experiment of converting them into freemen....”<sup>65</sup>

A short time later, local newspapers published the resolutions adopted at the inaugural meeting of the newly-created Providence Anti-Abolition Society. “We, the People of Providence,” the resolutions began, in an obvious evocation of the American Constitution, before proceeding to demand federal suppression of the abolitionist movement on the grounds that it threatened “sacred rights of property” as well as “the existing relations of friendship and of business between different sections of our country.” The officers of the society included many of Rhode Island's premier political and business leaders, several of whom were members of the Brown Corporation. The resolutions were drafted by a committee chaired by William G. Goddard, a Brown professor of moral philosophy

and later a member of both the Board of Trustees and the Board of Fellows. Among the vice presidents of the Providence Anti-Abolition Society was Nicholas Brown Jr., the University's namesake and a member, forty years before, of the Providence Abolition Society.<sup>66</sup>

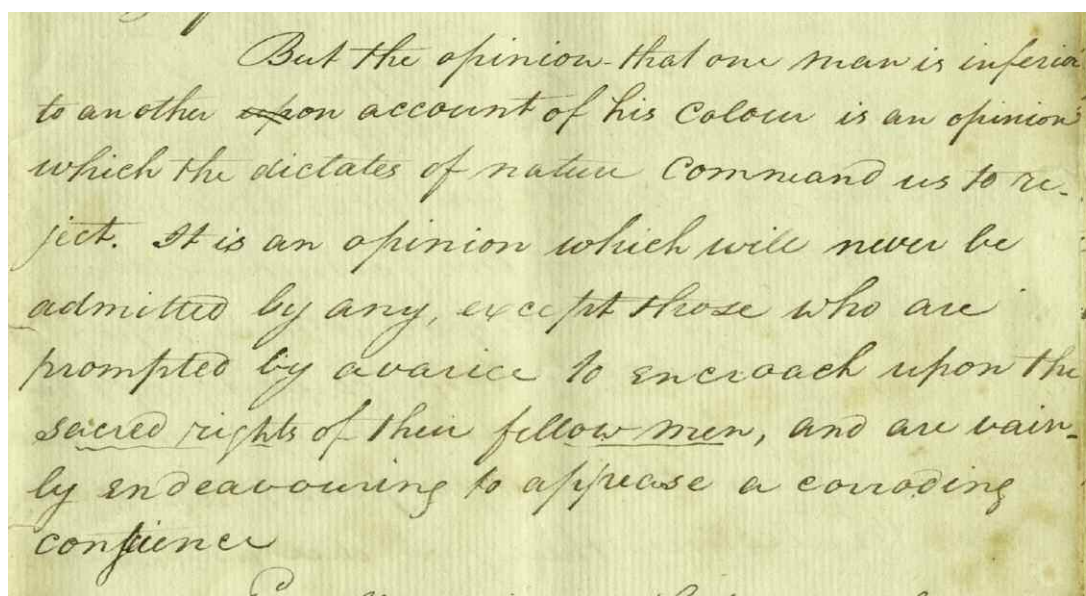
All these events were watched with interest by Nicholas's uncle, Moses. Ninety-seven years old, Moses had outlived his brothers, his son, and most of his nieces and nephews. In 1835, as the controversy over abolition raged, he summoned his attorney and added a codicil to his will, leaving \$500 to the local branch of the American Anti-Slavery Society, "to publish such pamphlets as the society might judge useful for abolishing slavery." He died the following year.<sup>67</sup>

### Slavery and Abolition on College Campuses

Like the battle over the slave trade in the eighteenth century – and like the slavery reparations controversy of our own time – the abolition debate spilled onto college campuses, compelling institutions to reflect on the nature of slavery and, more broadly, on the responsibility of universities when faced with issues arousing great public passion. Different schools responded in different ways. A few cast their lot with the anti-slavery movement,

providing forums for abolitionist speakers and admitting black students. African Americans graduated from Amherst and Bowdoin as early as 1826. Wesleyan enrolled a black student in the early 1830s, but it appears that fellow students hounded him from the school. Oberlin College went furthest, admitting both black men and black women on a regular basis beginning in 1835. Of the roughly four hundred African American students to earn degrees at white colleges in the nineteenth century, nearly a third of them studied at Oberlin. During the antebellum years, the campus also served as an important stop on the Underground Railroad.<sup>68</sup>

Most colleges took a more conservative approach. Harvard and Yale, institutions with substantial numbers of southern students and large contingents of textile manufacturers among their trustees and donors, did not admit African American students into their undergraduate colleges until the 1870s. (Princeton, the most southern of northern universities, did not admit black students until World War II.) At Harvard, the abolition question was considered so inflammatory that President Josiah Quincy sought to prevent students and faculty from even discussing it. At least one faculty member was dismissed for expressing anti-slavery sentiments, and others received formal



*"We leave for future generations to investigate..."*  
Excerpt from James Tallmadge's 1798 student commencement oration on the evils of the slave trade.

*Dubbing themselves the Providence Anti-Abolition Society, the gentlemen demanded federal suppression of the abolitionist movement on the grounds that it threatened “sacred rights of property” as well as “the existing relations of friendship and of business between different sections of our country.” Among the vice presidents of the Anti-Abolition Society was Nicholas Brown Jr., the University’s namesake and a member, forty years before, of the Providence Abolition Society.*

warnings. “I... distinctly stated to you that... I held it an incumbent duty of every officer of the Institution to abstain from any act tending to bring within its walls discussions upon questions on which the passions and interests of the community are divided, and warmly engaged,” Quincy reminded one junior instructor. Quincy’s concerns were seemingly borne out in the early 1850s, when a trio of African American students were briefly admitted to Harvard’s medical program. The experiment appears to have been launched by the local chapter of the American Colonization Society, which planned to transport the three men to Africa after they had completed their studies, but it was cut short after protests from other students, who complained that “the admission of blacks to the medical Lectures” undermined the “reputation” of Harvard and lessened “the value of a degree from it.”<sup>69</sup>

### **Slavery as a Problem of Moral Philosophy: the Presidency of Francis Wayland**

Brown charted its own idiosyncratic course. Like most of its peer institutions, Brown did not admit black students during the antebellum years – the first African Americans enrolled only in the 1870s – and it certainly did not render any formal support to the abolitionist movement. But the college also made no effort to suppress discussion of the issue. On the contrary, students were actively encouraged to grapple with the moral and political issues raised by the controversy. The architect of this unusual policy was Rev. Francis Wayland, who served as Brown’s president from 1827 to 1855.

America’s premier moral philosopher – his textbook, *The Elements of Moral Science*, sold more than two-hundred thousand copies in the nineteenth century – Wayland was a staunch opponent of slavery, which he regarded as both an offense against God and a patent violation of the nation’s founding principles. But he was also extremely hostile to the new abolitionists, whom he saw as irresponsible agitators. “Slavery in this country will yet cease, for it is wrong,” he wrote a correspondent in 1837. “But it will never be made to cease by the present efforts. They have on them, in my opinion, every mask of failure, for they are not made in the fear of God or with love to man. They may destroy the union, plunge this country into a civil war, break us up into a half dozen different confederacies, but abolish slavery as they are now attempting to do it – they never will. You may note my words, *they never will.*”<sup>70</sup>

Wayland had pragmatic reasons for seeking a middle ground in the escalating conflict over slavery and abolition. Not only was he the president of a university in a state dominated by textile interests, but he was also president of the national convention of the Baptist Church, which was bitterly divided on the slavery question. (The church finally split into southern and northern wings in 1845.) Yet his approach also reflected his philosophical precepts. For Wayland, moral progress came not through conflict and name-calling, but through a gradual process of enlightenment, nurtured by respectful, reasoned dialogue. He sought to model this approach in both his teaching and his writing, most notably in *Domestic Slavery Considered as a Scriptural Institution*, a published debate with a pro-slavery clergyman from South Carolina. Slaveholders, Wayland believed, could be brought to see the evil of slavery, but not in the overheated atmosphere created by abolitionism. He elaborated this position in *The Limitations of Human Responsibility*, published in 1838. In the book, Wayland argued that people had a right, indeed an obligation, to try to persuade slaveholders of the error of their ways,

but beyond that their rights and obligations did not go. Responsibility for acting or not acting on the advice lay with each individual slaveholder. "I have no right, for the sake of carrying a measure, or stirring up excitement, or swaying the popular opinion, to urge, as a matter of universal obligation, what God has left as a matter to be decided by every man's conscience," he wrote. The problem, of course, was that very few southern slaveholders were open to persuasion, a fact that even Wayland eventually came to acknowledge. The deeper problem, from a philosophical point of view, lay in the portrayal of moral responsibility as a transaction solely between white men. There was little suggestion in Wayland's argument that people might also bear responsibilities toward those who were unjustly enslaved.<sup>71</sup>

### **Brown Students Debate Abolition**

Whatever the limitations of Wayland's approach, it created wide latitude for Brown students to discuss the issues swirling about them. And discuss them they did, not only in classrooms but also in commencement orations, Phi Beta Kappa lectures, and formal debates staged by a half dozen campus societies. Were black and white people endowed with equal capacities to reason? Would it be politic for America to emancipate its slaves? Was the "existence of slavery in a nation prejudicial to its morals?" Did southern planters have a right, "under the present circumstances," to hold slaves? Could slavery be justified in terms of scripture or "the Principles of Political Economy"? Wayland himself dedicated several weeks of his senior seminar to the problems of slavery and abolition. "He permitted the largest

liberty of questioning and discussion," one of his students later recalled, insisting only "that the student should state his point with precision."<sup>72</sup>

Determining the exact proportion of Brown students who supported or opposed slavery in the antebellum years is not possible. Clearly many students, southerners and northerners alike, were pro-slavery, or at least anti-abolition. Most formal debates for which a result is recorded seem to have been resolved against abolition. When abolitionist Wendell Phillips came to speak at a Providence church in 1845, he was heckled and abused by a large contingent of Brown students. (Phillips, no stranger to heckling, reportedly told the students that "they might be silly as geese or venomous as serpents, he would speak if they stayed until midnight." They did, and he did.) Other students, however, joined the ranks of the abolitionist movement. The founding members of the Providence branch of the American Anti-Slavery Society included eleven Brown students. At least one Brown graduate, named Dresser, became an agent for the society. He was later arrested in Nashville and publicly whipped for distributing abolitionist literature.<sup>73</sup>

In the end, slavery was abolished in the United States not by reasoned debate or by the progress of moral enlightenment but by force of arms. At least twenty-one Brown University students died in the service of the Union Army. A plaque in Manning Chapel, on the University's main green, honors their sacrifice. At least thirteen Brown students died in the uniform of the Confederacy. Their service, like so much else about the University's tangled relationship with slavery, would soon be forgotten.<sup>74</sup>

# ARTICLES

AGREED upon, by and between Esek Hopkins Master of the good Brigg called the Salley of Providence in the Colony of Rhode Island now living at the wharf in Providence and bound for the Coast of Africa and from thence to the west Indies of South Carolina and from thence home to Providence

AND we the Seamen and Mariners belonging to the said Brigg Salley do hereby declare ourselves fully agreed to perform the said Voyage, under the Penalty of Five Pounds Sterling for each Man, by the Help of GOD. Further, we acknowledge ourselves fully satisfied with the Wages to which we have subscribed our Names, acknowledging ourselves to have received One Month's Pay in Hand, at Agreement, as below subscribed. And we the Master and Seamen further oblige ourselves to the Forfeitures following, to wit: The Master for not coming to Agreement with his Men in Writing, forfeits for each Man, Five Pounds Sterling. Seamen or Mariners absenting themselves from the Business of the Voyage, or Service of the master without Leave of the Master, each Man, for each Day's Absence, forfeits two Day's Pay. Further, any Seaman or Mariner leaving the Brigg before he is discharged, forfeits One Month's Pay. These being drawn by Direction of an Act of Parliament, made for the Benefit of Greenwich Hospital, and Regulation between Masters and Seamen: As Witnesses our Hands, and it's agreed by both parties that no wages be demanded till the Brigg arrives safe to Providence as aforesaid

Time of Entry.	Men's Names.	Quality.	Advance Wages before sailing.			Wages per Month, or by the Run for the Voyage.			Hospital Money.	When discharged.	Wages due.		
			£.	s.	d.	£.	s.	d.			£.	s.	d.
1764 August 20 <sup>th</sup>	<u>Esek Hopkins</u>	master				£50				Jan <sup>y</sup> 29 <sup>th</sup>	86 <sup>7</sup>	17 <sup>11</sup>	
August 20 <sup>th</sup>	<u>Thos. Underwood</u>	mate	£60			£60				Jan <sup>y</sup> 31 <sup>st</sup> 1766			
August 20 <sup>th</sup>	<u>Wm. Cothran</u>	Second mate	60			£60				Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Septem <sup>r</sup> 20 <sup>th</sup>	<u>Amos Hopkins Jun<sup>r</sup></u>	Cooper	112	14	6	£50			14.16	Jan <sup>y</sup> 31 <sup>st</sup> 1766			
Aug <sup>t</sup> 20 <sup>th</sup>	<u>Sam<sup>l</sup>. Ward</u>	Fore mast	121	15		£45			None	Jan <sup>y</sup> 31 <sup>st</sup> 1766			
Septem <sup>r</sup> 3 <sup>rd</sup>	<u>James Yorke</u>	Boate	50			50			Two Boys	Jan <sup>y</sup> 29 <sup>th</sup> 1766			
Septem <sup>r</sup> 8 <sup>th</sup>	<u>Abraham Hawkins</u>	Carpenter	148	6	3	£50			One Boy	Jan <sup>y</sup> 29 <sup>th</sup> 1766			
August 20 <sup>th</sup>	<u>Wm. Parker</u>	Fore mast	122	18	6	£50			None	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Sept <sup>r</sup> 3 <sup>rd</sup>	<u>Ebenezer Whitaker</u>	fore mast	58	9		35			None 14.16	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Sept <sup>r</sup> 3 <sup>rd</sup>	<u>Colin Mackenzie</u>	do	81	8		60			None	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Sept <sup>r</sup> 10 <sup>th</sup>	<u>Richard Smith</u>	do	53			35			None	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Sept <sup>r</sup> 13 <sup>th</sup>	<u>Owen Neal</u>	fore mast	112	10		£40			None 14.16	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Sept <sup>r</sup> 14 <sup>th</sup>	<u>Mark</u>	fore mast	£50			£50			none	Jan <sup>y</sup> 29 <sup>th</sup> 1766			
Sept <sup>r</sup> 15 <sup>th</sup>	<u>James Daniel</u>	fore mast	£50			£50			None	Jan <sup>y</sup> 31 <sup>st</sup> 1766			
Sept <sup>r</sup> 19 <sup>th</sup>	<u>Edw<sup>d</sup>. Abbie</u>	Negro Boy				£30			15.1	Jan <sup>y</sup> 31 <sup>st</sup> 1766			
1764 Sept <sup>r</sup> 20 <sup>th</sup>	<u>Petter Franey</u>					35			4.15	Jan <sup>y</sup> 30 <sup>th</sup> 1766			
Nov <sup>r</sup> 12 <sup>th</sup>	<u>Nichas. Mufford</u>	Salon				50			2.2	Jan <sup>y</sup> 29 <sup>th</sup> 1766			

PROVIDENCE, (New-England) Printed by WILLIAM GODDARD, near the Court-House, where all Sorts of Blanks are printed and fold.

N.B. Word & Neal began to work Jan<sup>y</sup> 10<sup>th</sup> before the date, which must be examined into  
 N.B. The Advance Money is not deducted out of the whole wages in column of wages due  
 N.B. Corbin is not Capt. Hopkin's brother but his brother's brother that he died May 18<sup>th</sup> 1766  
 N.B. Capt. Hopkins wages this Negro Ned Abbie is paid monthly by his Capt. in the Brigg  
 N.B. The Publick of which part has paid the Capt. for the Brigg & there settled

Brigg Arrived from Sea 29<sup>th</sup> Jan<sup>y</sup> 1766  
 + Josiah Polley was bound to Sam<sup>l</sup>. Corbin of Woodstock

Articles for the slave ship Sally, 1764, listing the names, duties, and wages of each crewman. Esek Hopkins, the brig's master, was promised £50 per month, plus a "privilege" - a commission - of ten barrels of rum and ten enslaved Africans to sell on his own account. The crew included one "Negro boy," Edward Abbie, Hopkins's slave.

# *Confronting Historical Injustice: Comparative Perspectives*

**I**N HER LETTER appointing the steering committee, President Simmons charged us not only to examine Brown's history, but also to reflect on the meaning and significance of this history in the present. She particularly asked the committee to examine "comparative and historical contexts" that might illuminate Brown's situation, as well as the broader problem of "retrospective justice." How have other institutions and societies around the world dealt with historical injustice and its legacies, and what might we learn from their experience? A substantial majority of the committee's public programs pertained to this aspect of our charge, to which we now turn.

## **Humanity in an Age of Mass Atrocity**

Human history is characterized not only by slavery but also by genocide, "ethnic cleansing," forced labor, starvation through siege, mistreatment of prisoners of war, torture, forced religious conversion, mass rape, kidnapping of children, and any number of other forms of gross injustice. Different civilizations at different historical moments have developed their own understandings of such practices, specifying the conditions under which they were allowed or forbidden and against whom they might legitimately be directed. Jews, Christians, and Muslims all devised rules for slavery, the conduct of war, and the treatment of prisoners and civilian populations. Our era is hardly the first to grapple with humanity's capacity for evil.<sup>75</sup>

The idea that certain actions were inherently illegitimate and should be universally prohibited, no matter the circumstances or the particular target group, emerged in the eighteenth century. At the root of this belief was the idea of shared

humanity, the belief that all human beings partook of a common nature and were thus entitled to share certain basic rights and protections. This conviction, which animated the early movement to abolish the slave trade, received its classic expression in the preamble to the American Declaration of Independence, with its invocation of "self-evident" truths about equality and inalienable rights to "life, liberty, and the pursuit of happiness." Obviously these rights have not been extended to all people at all times. As we have already seen, the idea of race, also a product of the eighteenth century, has played a particularly important role in blunting the claims of certain groups to full equality. Yet there is no question of the historical importance of the idea of shared humanity, which undergirds the whole edifice of international humanitarian law.

In bequeathing us the ideas of shared humanity and fundamental human rights, the eighteenth century also left us with a series of practical and philosophical problems. How are human rights to be enforced and defended? Do nation states have the right to treat their own citizens as they please, or are there occasions when the demands of humanity trump national sovereignty? How are perpetrators of human rights abuse to be held to account? Such questions are obviously most pointed in the midst or immediate aftermath of atrocities, but they have longer-term implications as well, for great crimes inevitably leave great legacies. Are those who suffered grievous violations of their rights entitled to some form of redress, and,

if so, from what quarter? Do such claims die with the original victims, or are there occasions when descendants might also deserve consideration? How do societies move forward in the aftermath of great crimes?

These are not merely academic questions. On the contrary, the global effort to define, deter, and alleviate the effects of gross historical injustice represents one of the most pressing challenges of our time. The modern era will go down in history as the age of atrocity, an age in which the fundamental human rights that most societies profess to cherish have been violated on a previously unimaginable scale. No single factor accounts for this grim reality. The birth of modern nation states, with sophisticated bureaucracies and unprecedented industrial might; the creation of colonial empires; innovations in military technology; the rise of “total war,” involving the mass mobilization of civilian populations and the deliberate targeting of non-combatants; the growth of totalitarian ideologies; the emergence of ever more virulent forms of racial, ethnic, and religious bigotry; the rise of mass media, and the use of those media to foment hatred and fear: All these developments and more have radically enhanced humanity’s propensity and capacity for annihilation. Viewed in this context, the attempt to uphold basic principles of justice and humanity may seem a little like trying to hold back the tide, but few can doubt its urgency.<sup>76</sup>

### **Defining Crimes Against Humanity**

Broadly speaking, the history of efforts to restrain and redress the effects of gross human injustice has proceeded in two phases, both of which are of potential relevance to the current debate over slavery reparations in the United States. The first phase, stretching from the late eighteenth century to the aftermath of the Second World War, revolved around efforts to define and enforce international norms of humanitarian conduct in regard to three scourges: slavery and the slave trade; offenses committed during times of war; and genocide. These efforts reached a climax of sorts at Nuremberg, where an international military tribunal prosecuted leaders

of Nazi Germany, a regime that combined all the worst attributes of slavery, war crimes, and genocide. The second phase, beginning at Nuremberg and continuing to our own time, has focused less on prevention or prosecution than on redress – on repairing the injuries that great crimes leave. At the most obvious level, this entails making provision for the victims of atrocities and their survivors, but it also involves broader processes of social rehabilitation, aimed at rebuilding political communities that have been shattered.

In both guises, retrospective justice rests on the belief that some crimes are so atrocious that the damage they do extends beyond immediate victims and perpetrators to encompass entire societies. The most common label for such offenses is “crimes against humanity,” a term meant to convey not only their great scope and severity but also their distinctive logic. Crimes against humanity are not simply random acts of carnage. Rather, they are directed at particular groups of people, who have been so degraded and dehumanized that they no longer appear to be fully human or to merit the basic respect and concern that other humans command. The classic example is the Holocaust, the Nazi campaign to exterminate Jews and other “subhuman” races, but the same logic can be seen in a host of other episodes, from the slaughter of more than a million Armenians by Turkish authorities during World War I to the systematic rape of more than twenty thousand Muslim women by Serbian soldiers in Bosnia in the 1990s. While obviously directed against specific targets, such crimes attack the very idea of humanity – the conviction that all human beings partake of a common nature and possess an irreducible moral value. By implication, all human beings have a right, indeed an obligation, to respond – to try to prevent such horrors from occurring and to redress their effects when they do occur. At the most obvious level, this means trying to prevent further bloodshed, to

break the “cycles of atrocity” that crimes against humanity all too often spawn. But it also means confronting the legacies of bitterness, contempt, sorrow, and shame that great crimes often leave behind – legacies that can divide and debilitate societies long after the original victims and perpetrators have passed away.<sup>77</sup>

*Crimes against humanity are not simply random acts of carnage. Rather, they are directed at particular groups of people, who have been so degraded and dehumanized that they no longer appear to be fully human or to merit the basic respect and concern that other humans command. Such crimes attack the very idea of humanity – the conviction that all human beings partake of a common nature and possess an irreducible moral value. By implication, all human beings have a right, indeed an obligation, to respond – to try to prevent such horrors from occurring and to redress their effects when they do occur.*

### **Slavery and the Slave Trade in International Law**

The first international humanitarian crusade was the campaign to abolish the transatlantic slave trade, which stands historically and conceptually as the prototypical crime against humanity. As we have seen, Rhode Island played a conspicuous, if contradictory, part in the campaign, becoming the first state in the United States to legislate against the slave trade even as local merchants continued to play a leading role in the traffic. The movement’s crowning achievement came in 1807, when the British Parliament and the U.S. Congress both voted to abolish the transatlantic trade. While the United States made only a token effort to enforce the ban, Great Britain launched a major suppression effort, dispatching a naval squadron to the African coast and negotiating a series of bilateral treaties with other nations, permitting the boarding and inspection of vessels suspected of carrying

slaves. Offenders were tried in special “Courts of Mixed Commission” scattered around the Atlantic World, an early example of the use of international judicial bodies to enforce humanitarian law.

Africans redeemed from captured ships were taken to Freetown, in the West African colony of Sierra Leone, where they were settled in “recaptive” villages, each with its own school.<sup>78</sup>

It is difficult to appreciate, in retrospect, how remarkable this development was. In the course of a single generation, a commerce that had scarcely ruffled the world’s conscience for two and a half centuries was recast as a singular moral outrage. That the suppression campaign was led by Britain, the nation controlling the largest share of the transatlantic trade at the time, makes it more remarkable still. Yet the victory was less than complete. While the British Anti-Slavery Squadron apprehended hundreds of ships and liberated tens of thousands of people, it did not end the trade. Over the next half century, another two million to three million Africans were carried to the Americas, chiefly to Cuba and Brazil. Equally important, the growing consensus on the criminality of the slave trade did not immediately extend to the institution of slavery itself, which continued to exist, and to enjoy wide acceptance, long after the trade had been banned. Britain abolished slavery in its colonies only in the 1830s, and it took another generation and a civil war to end the institution in the United States. In Brazil and Cuba, the last American nations to enact abolition, slavery survived until the 1880s.

The decade of the 1880s also saw the first multilateral anti-slavery treaties. At the Berlin Conference of 1885 and again at the Brussels Conference of 1889, delegates from fourteen nations – all the major European powers, plus the United States – solemnly pledged to use their offices to halt the trafficking of enslaved Africans, whether over land or water, anywhere in the world. But the rhetoric was deceptive, indeed rankly cynical. Alleviating the plight of enslaved Africans served as the



**We can no longer afford to take that which was good in the past and simply call it our heritage, to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion. The subterranean stream of Western history has finally come to the surface and usurped the dignity of our tradition. This is the reality in which we live.**

Hannah Arendt, *The Origins of Totalitarianism*, 1951

chief rationalization for partitioning Africa into formal European colonies. While Britain and France came away with the greatest number of colonies, the single largest territory – the Congo Free State, an area equivalent in size to all of western Europe – was given as a protectorate to one man, King Leopold of Belgium. Over the next twenty years, Belgian officials in the Congo would oversee one of the most notorious forced labor regimes in human history in their relentless drive to produce more ivory and rubber. By the time Leopold was finally compelled to relinquish control of the territory in 1907, an estimated ten million people – about half of the population of the Congo – had died. It would take another two decades after that, until the 1926 League of Nations Slavery Convention, for the nations of the world to commit themselves formally to “the complete abolition of slavery in all its forms.”<sup>79</sup>

### **War Crimes**

The year of the last documented transatlantic slaving voyage, 1864, also witnessed the first international treaty regulating the conduct of war, the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies of the Field. Signers of the convention pledged not only to provide medical attention to enemy combatants, but also to refrain from firing upon hospitals, ambulances, and other medical facilities, provided that

they were clearly marked – hence the treaty’s common name, the “Red Cross” agreement. Amended in 1906 and 1929, the convention was dramatically expanded after the Second World War to guarantee proper treatment of prisoners of war as well as the protection of civilians during times of war. (The terms of the 1949 agreements have recently come in for renewed debate, with American officials disputing their applicability to prisoners apprehended in the ongoing war on terror.) New protocols were added in 1977, extending protection to civilian victims of armed conflicts, including those waged within the borders of a single country.<sup>80</sup>

The Hague Convention concerning the Laws and Customs of War on Land, signed in 1899 and extended in 1907, was more ambitious in scope but less effective in practice. The aim of the convention was to establish basic rules of warfare, by prohibiting such tactics as the use of chemical weapons (chiefly poison gas) and aerial bombing. The 1907 convention also created a permanent court of arbitration, designed to resolve international disputes before they could escalate into war. The convention obviously did not achieve its objectives. It did not prevent the outbreak of World War I in 1914, nor did it deter belligerents from employing precisely the tactics they had renounced. While poison gas retained the odor of criminality, aerial bombardment soon lost it, and the practice was freely indulged by all sides in the Second World War, which ended with the deliberate incineration of civilian population centers. At the end of World War I, the victorious Allies made an effort to prosecute leaders of Imperial Germany, bringing indictments against some eight hundred military and civilian officials for what were described as “war crimes” and “crimes against humanity.” But the postwar German government refused to hand them over, citing its precarious political position, and the Allies did not press the point. A small number of the accused were later prosecuted in German courts, but the few who were convicted escaped with light sentences, on the grounds that they had merely followed orders.<sup>81</sup>

## Genocide

The aftermath of World War I also saw the first international confrontation with genocide, the systematic attempt to eradicate an entire group of people on national, ethnic, racial or religious grounds. While the term is of recent vintage – it was coined in 1944 by jurist Raphael Lemkin from the Greek word for race and the Latin word for killing – the process it describes reaches back to Biblical times and beyond. The colonization of the Americas offers a host of examples, from the extermination of the Tainos, the Caribbean islanders who greeted Columbus, to the destruction of the Pequots in New England in the 1630s. The onset of European colonialism in Africa was also a genocidal business, as the exigencies of conquest intersected with racist ideology and imperial greed to produce murder on a mass scale. While the horror of the Congo Free State generated the greatest number of fatalities, the 1904-07 Herero genocide in German South West Africa was in some respects more ominous, given German commanders' expressed determination to bring about the "complete extermination" of people described as "nonhumans." No one was ever prosecuted for the

*In the 1920s, Turkish courts convicted several perpetrators, in abstentia, for their role in the "deportation and massacre" of Armenians, but the effort collapsed in the face of international indifference and resurgent Turkish nationalism. By the end of the 1920s, the official Turkish position on the matter was that the Armenian genocide had never occurred, a position upon which the government still insists today.*

Herero genocide, which is today the subject of growing scholarly interest and a budding reparations movement.<sup>82</sup>

If colonialism represents one of the historical seedbeds of genocide, then total war represents another. In 1915, shortly after the outbreak of World War I, Turkish authorities launched a campaign to eliminate the Ottoman Empire's Armenian minority. Over the next two years, an estimated one million Armenians were killed, while thousands of others were lost to their communities through deportation and forced religious conversion. These events were widely noted at the time, including by leaders of the Allied powers, who issued a joint declaration in May 1915 condemning the Turkish campaign and pledging to prosecute all responsible for these "crimes . . . against humanity and civilization." Little ultimately came of the threat. In the 1920s, Turkish courts convicted several perpetrators, in abstentia, for their role in the "deportation and massacre" of Armenians, but the effort collapsed in the face of international indifference and resurgent Turkish nationalism. By the end of the 1920s, the official Turkish position on the matter was that the Armenian genocide had never occurred, a position upon which the Turkish government still insists today. The lesson was certainly not lost on future genocidaires, including Adolph Hitler. "Who after all speaks today of the extermination of the Armenians?" he is reputed to have asked on the eve of the invasion of Poland.<sup>83</sup>

## Nuremberg and Its Legacy

Ultimately it took the horrors of World War II to compel the international community to face squarely the problem of crimes against humanity. In 1945, the Allied powers created a special tribunal to prosecute some of the men responsible for the horrors of Nazism. In a powerful symbolic gesture, the tribunal was convened in Nuremberg, the city in which the Nazis had first promulgated the "race laws" that stripped Jews of citizenship. In 1946, a second court, the International Military Tribunal for the Far East, or Tokyo Tribunal, was convened to prosecute leaders of imperial Japan.

Bill of lading for the Sally on its departure for Africa, September, 1764. The ship's cargo included thirty boxes of spermaceti candles, 1,800 bunches of onions, and 17,274 gallons of New England rum.

**S**HIPPED by the Grace of God, in good Order, and well condition'd, by  
*Nicholas Brown and Company*  
 in and upon the good *Brigg* call'd the *Sally*  
 whereof is Master, under God, for this present Voyage,  
*Ezek Hopkins* and now riding at Anchor in the *harbour*  
 of *Providence* and by God's Grace bound for  
 the *Coast of Africa* to say

*158, khd, Juice, 8 Gang Lash of 20 bbls New  
 England Rum Dry, 274 Gn. 40 bbls flour, 51 Loads Sugar  
 Juice, Brown Sugar, 1800 Bunches Onions, 30 Boxes Spermaceti  
 Candles, 6 bbls Starr, 2 bbls Melasses, 2 bbls Beef, 22 bbls Pork, 10 bbls  
 Munkaden, 300 Bread, 25 Cask rice, 16 of Juice with Sundry  
 other Articles for the said Crew of as per Invoice of the same, all which  
 is consign'd to the said *Ezek Hopkins* on the *Shopper* and of *Reserve*  
 of the *Shippers* being mark'd and number'd as in the Margin, and are to be delivered in the like  
 good Order, and well condition'd, at the aforesaid Port of *Coast of  
 Africa* (the Danger of the Seas only excepted) unto *Ezek Hopkins*  
 or to his Assigns, he or they paying Freight for the said Goods  
*Nothing* with Primage and Average accustom'd. In Witness where-  
 of, the Master or Purser of the said *Brigg* hath affirmed to *Two Bills* of  
 Lading, all of this Tenor and Date; the one of which *Two Bills* being accom-  
 plish'd, the other *One* to stand void. And so God send the good *Brigg*  
 to her desir'd Port in Safety. AMEN. Dated in *Providence* this  
*Eleventh Day of September 1764.*  
*Ezek Hopkins**

Prosecutors and judges at Nuremberg and Tokyo were acutely aware of the unprecedented nature of the proceedings, which posed a variety of legal problems, not least deciding the specific charges on which perpetrators would be tried. They also appreciated the importance of their work in creating procedures and precedents for future generations facing the challenge of mass atrocity. Probably the most important accomplishment of the tribunals, and of Nuremberg in particular, was to establish that those who committed crimes against humanity could be held to account even when their actions were “not in violation of the domestic law of the country where perpetrated” – in short, that people were responsible for their conduct even when they acted “legally” or “under orders.”<sup>84</sup>

The primary institutional outcome of the postwar tribunals was the Convention on the Prevention and Punishment of the Crime of Genocide, formally adopted by the United Nations General Assembly in 1948. The convention not

only clarified and codified the still novel concept of “genocide,” but also committed signatories to taking concrete action to prevent and punish it, whenever and wherever it occurred. While prompted by the Nazi attempt to exterminate the Jews, the convention revealed the continuing importance of slavery and the slave trade as the quintessential crimes against humanity. The list of offenses defined as constituting “genocide” included not only “enslavement,” but also forcible transfer of population, rape and other forms of sexual abuse, persecution on racial grounds, inhumane acts causing serious physical and mental harm, deprivation of liberty, and forced separation of children and parents. As one of the speakers hosted by the steering committee noted, had the Genocide Convention been in effect during the transatlantic slave trade or American slavery, signatories would have been obliged, at least in theory, to take action against them.<sup>85</sup>

### **International Humanitarian Law, National Sovereignty, and the United States**

The tribunals created after World War II and the international conventions and protocols to which they gave rise represent watersheds in the history of international humanitarian law. Yet the tribunals have not fully realized the hopes of their architects, either in terms of deterring future atrocities or of prosecuting perpetrators. The rapid onset of the Cold War was a severe blow, making it all but impossible for the international community to mount any united response to murderous regimes, a weakness vividly displayed in the late 1970s, as genocidaires in Cambodia, Guatemala, and East Timor slaughtered millions with virtual impunity. At the same time, the growing emphasis on international responsibility under the auspices of the United Nations collided with still powerful ideas about the sovereignty of individual nation states. This problem became apparent immediately after the signing of the Genocide Convention, when the U.S. Senate refused to ratify the treaty. Though the intellectual and political foundations of the convention were chiefly laid by Americans, Senate opponents still balked at the prospect of U.S. citizens being tried before international tribunals rather than in American courts, where they were guaranteed certain constitutional protections. (The Senate finally ratified the treaty, with reservations, in 1988, forty years after its drafting.)<sup>86</sup>

Prospects for collective action have improved somewhat since the end of the Cold War. While the international community was fatally slow to acknowledge and respond to the outbreak of genocide in Rwanda and Bosnia in the early 1990s, the appointment of international criminal tribunals for both cases revives hopes that at least some murderers will be punished for their crimes. More recently, special “hybrid” tribunals, blending elements of national and international judicial systems, have been appointed to prosecute surviving perpetrators of the Cambodian and East Timorese genocides, as well as those responsible for more recent atrocities in Kosovo and Sierra Leone. Maintaining a multiplicity of courts, each with its

own personnel and procedures, has inevitably produced complications and delays, but together these tribunals bespeak a new international determination to hold perpetrators of gross human rights abuse to account. In 1998, delegates from 140 nations signed the Rome Statute establishing a permanent International Criminal Court dedicated to investigating and prosecuting genocide, war crimes, and crimes against humanity, but the court’s stature and effectiveness remain unclear. In 2002, the United States formally withdrew its signature from the accord, again citing the issue of national sovereignty, as well as concerns that the court might be used to arraign American civilian and military personnel.<sup>87</sup>

At this writing, the primary challenge to the international humanitarian regime lay in Darfur, a region in western Sudan that is the site of an ongoing genocide. Whether the international community has the capacity and will to stop the killing or to bring those responsible to justice remains to be seen.

### **The Limitations of Retributive Justice**

The tradition begun at Nuremberg and continuing in the various international tribunals operating today represents a form of what is known as retributive justice. Justice, in this view, centers on punishing evildoers. Historically, this is the most common form of justice and it is generally uncontroversial. But it has limitations. It is time bound. While crimes against humanity are generally excluded from statutes of limitation, prosecution is obviously only possible while perpetrators live. It also raises questions about selectivity. In a world rife with injustice, how do we determine which offenses are sufficiently grievous to require prosecution? And how do we determine whom specifically to prosecute? In the Nazi Holocaust, hundreds of thousands of people, virtually an entire society, became implicated in genocide, yet the original Nuremberg trials featured only two dozen defendants.<sup>88</sup>

These problems point to others. Crimes against humanity typically involve not only large numbers of perpetrators but also vast numbers of victims, with a range of different injuries, some of which persist for generations. While seeing perpetrators in the dock may bring some satisfaction to victims or their descendants, it does little in itself to rehabilitate them, to heal their injuries or compensate them for their losses. More broadly still, approaches focused solely on prosecution do little to rehabilitate societies, to repair the social divisions that great crimes inevitably leave. In other words, crimes against humanity raise issues not only of retributive but also of reparative justice.<sup>89</sup>

### **Reparative Justice and Its Critics**

As in the case of retributive justice, the history of reparative justice efforts is closely associated with the Holocaust. In the late 1940s and early 1950s, the government of West Germany, spurred in part by pressure from the United States, launched a series of programs intended to repair at least some of the damage wrought by Nazi atrocities. The West German effort, which included a formal acknowledgement of responsibility by the prime minister on behalf of the German people, as well as the payment of substantial reparations to victims, remained a more or less isolated example during the decades of the Cold War; but in the years since the 1980s, the world has seen a proliferation of reparative justice initiatives, stretching from Argentina to Australia, South Africa to Canada. While it is too early to assess the long-term effects of many of these programs, the idea that victims of crimes against humanity are entitled to some form of redress is today a more or less settled principle in international law and ethics. This status was confirmed with the publication in 2003 of the United Nations' "Draft Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law."<sup>90</sup>

Not everyone has welcomed these developments. In every society, there are many people who dismiss the whole reparative justice project as divisive, foolish, or futile. In the United States, such criticisms have emanated from both ends of the political spectrum. For some on the right, the quest for historical redress, and for monetary reparations in particular, is just one more symptom of the "culture of complaint," of the elevation of victimhood and group grievance over self-reliance and common nationality. For some on the left, the preoccupation with past injustice is a distraction from the challenge of present injustice, a reflection of the "decline of a more explicitly future-oriented politics" brought about by the collapse of socialist and social-democratic movements around the world. Advocates of reparative justice offer several rebuttals to these criticisms. Far from fomenting division, they argue, confronting traumatic histories offers a means to promote dialogue and healing in societies that are already deeply divided. This process, in turn, can generate new awareness of the nature and sources of present inequalities, creating new possibilities for political action. Viewed in this light, reparative justice is not an invitation to "wallow in the past" but a way for societies to come to terms with painful histories and move forward.<sup>91</sup>

While recent discussions of slavery reparations in the United States have chiefly focused on monetary payments, the history of reparative justice initiatives around the world suggests a wide variety of potential modes of redress. Broadly speaking, these approaches can be grouped under three rubrics: apologies (formal expressions of contrition for acts of injustice, usually delivered by leaders of nations or responsible institutions); truth commissions (public tribunals to investigate past crimes and to create a clear, undeniable historical record of them); and reparations (the granting of material benefits to victims or their descendants, including not only money but also nonmonetary resources such as land, mental health services, and education). Conceptually distinct, these approaches often overlap in practice. The 1988 U.S. Civil Liberties Act, for example, com-

bined all three modes in addressing the internment of Japanese Americans during World War II, including a national commission to study the matter and collect public testimony, modest monetary reparations (\$20,000 to each surviving internee), and a formal apology, tendered by the President on behalf of the nation.<sup>92</sup>

*The notion of reparative justice has attracted criticism from both ends of the political spectrum. For some on the right, the quest for historical redress is just one more symptom of the “culture of complaint,” of the elevation of victimhood and group grievance over self-reliance and common nationality. For some on the left, the preoccupation with past injustice is a distraction from the challenge of present injustice, a reflection of progressive paralysis following the collapse of socialist and social-democratic movements around the world.*

### **Apology**

One of the most elementary ways to repair an injury, though often one of the most difficult in practice, is to apologize for it. In 1951, West German Chancellor Konrad Adenauer issued a formal statement acknowledging the responsibility of the German people for the crimes of the Holocaust. The statement, produced after long and rancorous negotiations, was something less than an unqualified apology. “The overwhelming majority of the German people abhorred the crimes committed against the Jews and were not involved in them,” Adenauer insisted, adding that many had risked their lives “to help their Jewish fellow citizens.” “However,” he continued, “unspeakable crimes were committed in the name of the German people, which create a duty of moral and material reparations.” While tentative, Adenauer’s acknowledge-

ment of responsibility, together with his government’s agreement to pay substantial reparations to victims of Nazi persecution, represented a crucial step in Germany reclaiming its status within the community of nations. It also sharply distinguished the West German government from its counterpart in communist East Germany, which disclaimed any connection to or responsibility for the crimes of the Nazi regime.<sup>93</sup>

In 1951, the idea of a representative leader of a nation or institution formally taking responsibility for the offenses of predecessors was a novelty. Today, examples abound. In 1995, Queen Elizabeth II became the first British monarch to issue a formal apology to her subjects, directed to the Maori of New Zealand, for “loss of lives [and] the destruction of property and social life” occasioned by British colonization. In 2000, Pope John Paul II used the occasion of the first Sunday of Lent to apologize and “implore forgiveness” on behalf of the Catholic Church for a long catalogue of sins, including the violence of the Crusades and Inquisition, the humiliation and marginalization of women, and centuries of persecution of Jews. In 2005, ninety-two U.S. Senators endorsed a resolution formally apologizing for the Senate’s role in abetting the lynching of African Americans by refusing to enact a federal anti-lynching statute. The list goes on.<sup>94</sup>

Several speakers hosted by the steering committee discussed the recent proliferation of national and institutional apologies, offering sharply different analyses. Some were critical, dismissing the wave of recent apologies as a vogue, “contrition chic,” the triumph of the therapeutic and symbolic over the political and substantive. What can an apology possibly mean, one asked, when the people offering it neither enacted nor feel directly responsible for the offense for which they are apologizing, and when the people accepting the apology did not directly experience the offense? Others defended apology as an essential aspect of historical redress, particularly when accompanied by some material demonstration of seriousness and sincerity. Far from just “cheap talk,” they argued, apologies offer an opportunity

...[C]ivilization discovered (or rediscovered) in 1945 that men are not the means, the instruments, or the representatives of a superior subject – humanity – that is fulfilled through them, but that humanity is their responsibility, that they are its guardians. Since this responsibility is revocable, since this tie can be broken, humanity found itself suddenly stripped of the divine privilege that had been conferred on it by the various theories of progress. Exposed and vulnerable, humanity itself can die. It is at the mercy of men, and most especially of those who consider themselves as its emissaries or as the executors of its great designs. The notion of crimes against humanity is the legal evidence of this realization.

Alain Finkelkraut, *Remembering in Vain: The Klaus Barbie Trial & Crimes Against Humanity*

to facilitate dialogue, nurture accountability, and enrich political citizenship. As one speaker noted, most atrocious crimes in history begin with the denial of the equal humanity of a certain class of people; thus any project of social repair must begin with some acknowledgement of the dignity of that group and of the seriousness of what they suffered. Apologies are one vehicle to accomplish this.<sup>95</sup>

### **The Politics of Apology: Australia’s “Stolen Children” and Korean “Comfort Women”**

As several speakers noted, apologizing can be a complicated business. As in relations between individuals, apologies between groups and institutions involve subtle assessments of sincerity and motive, timing and tone, all of which are inevitably complicated by the variety of actors and the passage of time. The case of abducted Australian Aboriginal children, the subject of one of the programs sponsored by the steering committee, offers a dramatic

example. Between 1900 and the early 1970s, the Australian government, working with Christian missions, removed an estimated one-hundred thousand Aborigine children from their families and consigned them to boarding schools and white foster families as part of a forced racial assimilation policy. (The policy focused on light-skinned, or “half-breed,” children; full-blood Aborigines were presumed to be unassimilable and destined for extinction.) In the 1980s and ’90s, the fate of the “stolen children” became an important political issue in Australia, culminating in the appointment of a government commission of inquiry; the commission, which issued its report in 1997, recommended a formal government apology to affected families.<sup>96</sup>

The commission’s recommendation was rejected by the newly elected conservative government of John Howard, who insisted that current Australians bore no responsibility for the sins of their forbears and should not “embroil themselves in an exercise of shame and guilt.” The prime minister also expressed fears that an official apology would lead to massive compensation claims against the Australian government. Howard’s position prompted an immediate outcry, leading to the passage of apology resolutions in several state parliaments and the organizing by community groups of an annual “National Sorry Day.” The groundswell prompted Howard to amend his position, and in 1999 he introduced a resolution that expressed “deep and sincere regret” for the forced assimilation policy, but also stopped short of apologizing or accepting responsibility for it. The controversy continues today.<sup>97</sup>

The politics of apology have been even more contentious in East Asia, where the conduct of the Japanese Imperial Army during World War II – and the refusal of subsequent Japanese governments to accept full responsibility for that conduct – continues to shadow relations between Japan, China, and North and South Korea. Over the last fifteen years, Japanese leaders, including the current emperor and the prime minister, have issued numerous statements expressing regret and contrition for wartime atrocities, but the belatedness of the state-

ments and their emphasis on personal remorse rather than collective responsibility have left many victims groups distinctly unsatisfied. The controversy has come to focus on the predicament of so-called “comfort women” – women and children from Korea, China, and other occupied territories who were abducted from their homes and forced to work as sex slaves in military brothels. In 2001, after more than half a century of denial, the Japanese government acknowledged “military involvement” in the system and offered survivors up to \$20,000 in “atonement” money from a privately-funded “Asian Women’s Fund.” But a group of surviving comfort women, mostly from Korea, rejected the money, insisting that any funds should come directly from the Japanese government, accompanied by an unequivocal acceptance of responsibility and a formal apology.<sup>98</sup>

*In the American case, skepticism about institutional apologies reflects not only deeply engrained beliefs about individual responsibility but also wariness of the nation’s litigious culture. In the United States today, there is a widespread sense that to apologize for or even to acknowledge an offense exposes one to legal liability and invites claims for damages.*

The comfort women controversy is doubly relevant here, because the case has become a political issue in the United States. Outrage over the treatment of the women was the main inspiration for the Lipinski Resolution, a joint U.S. Congressional resolution introduced in 1997 which called upon the government of Japan to “formally issue a clear and unambiguous apology for the atrocious war crimes committed by the Japanese military during World War II; and immediately pay reparations to the victims of those crimes.” The resolution attracted dozens of congressional sponsors but was eventually scuttled by the State Department,

chiefly because of concerns that it would encourage other reparations claims. In April 2006, another joint resolution was introduced into Congress, again calling upon the Japanese government to “acknowledge and accept responsibility for” the enslavement of comfort women, and also to take steps to “educate current and future generations about this horrible crime against humanity.” The bill, which is pending, omits any reference to reparations, though it enjoins Japan to “follow the recommendations of the United Nations and Amnesty International with respect to the ‘comfort women’” – recommendations that include payment of monetary reparations.<sup>99</sup>

### **National Apologies in the United States**

Leaving the question of monetary reparations momentarily aside, there is a distinct irony in demands for a governmental apology coming from Americans, who tend to be skeptical of the value of collective apologies for past wrongs, at least when their own history is concerned. As innumerable letters sent to the steering committee made clear, many Americans reject, indeed resent, the suggestion that they bear some responsibility for actions in which they took no part, actions that may have occurred before they were born. The very notion collides not only with deeply engrained beliefs about individual responsibility, but also with quintessentially American ideas about historical transcendence, the capacity and fundamental right of human beings to shake off the dead hand of the past and create their lives anew. This skepticism is reinforced by the nation’s litigious culture. In America today, there is a widespread sense that to apologize for or even to acknowledge an offense exposes one to legal liability and invites claims for damages.

Despite these constraints, there are several examples in recent American history of government apologies. Japanese Americans forcibly interned during World War II received a presidential apology – in fact three: one from Gerald Ford in 1976, one from Ronald Reagan, when he signed the 1988 Civil Liberties Act, and one from his successor, George H.W. Bush, when implementing the



act. In 1993, Bill Clinton issued a formal apology to the indigenous people of Hawaii for the American government's role in the destruction of Hawaiian sovereignty. Four years later, Clinton apologized to victims of the Tuskegee "Bad Blood" experiment, in which the U.S. Department of Health deliberately and deceptively withheld treatment from African Americans infected with syphilis in order to study the effects of the unchecked disease. The 2005 Senate resolution on lynching represents the most recent example of a government apology, though it was offered on behalf of a particular institution rather than of the nation as a whole.<sup>100</sup>

### **Apologies Untended: Native Americans and African Americans**

American leaders have been notably slower to extend apologies to the two groups who would seem to have the most obvious claims to them: Native Americans and African Americans. While the indigenous people of Hawaii have received a presidential apology, native peoples on the mainland have not. In 2000, the Bureau of Indian Affairs apologized for its role in the "ethnic cleansing" of native lands and the deliberate annihilation of native culture, but the gesture's impact was muted by the fact that it came from an assistant secretary of the Department of Interior, on behalf of a government agency, rather than from the President, on behalf of the nation. (The fact that the official who issued the apology was himself Native American further reduced its effect.) In 2004, a trio of senators, led by Ben Nighthorse Campbell, a Republican from Colorado and member of the Northern Cheyenne tribe, introduced a joint Congressional resolution to "acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States." But the bill received a negative recommendation from the Senate's Committee on Indian Affairs and died without reaching the Senate floor.<sup>101</sup>

The government has been even more reticent on the subject of slavery. While a growing number of American churches, corporations, and universities have acknowledged their complicity in slavery and the slave trade, the nation as a whole has not. In 1997, Congressman Tony P. Hall of Ohio introduced a one-sentence concurrent resolution – "Resolved by the House of Representatives that the Congress apologizes to African Americans whose ancestors suffered as slaves under the Constitution and the laws of the United States until 1865" – but the bill languished in committee without ever coming up for debate on the floor of Congress. In the meantime, the closest the U.S. government has come to a formal apology is a pair of statements by President Clinton in 1998 and President Bush in 2003, both delivered at the same spot: the old fortress at Goree Island in Senegal, West Africa. Both presidents expressed regret for the slave trade but they also carefully stopped short of apologizing for it. President Bush gave a particularly stirring speech, describing the slave trade as "one of the greatest crimes of history" and slavery itself as "an evil of colossal magnitude," the latter characterization borrowed from his eighteenth-century predecessor, John Adams. Yet he offered no apology, nor any suggestions about what Americans in the present might do in light of this painful history. Whether the bicentennial of the abolition of the Atlantic slave trade in 2007 will provide the occasion for a more forthright apology remains to be seen.<sup>102</sup>

### **Telling the Truth**

If there is a single common element in all exercises in retrospective justice it is truth telling. Whether justice is pursued through prosecution, the tendering of formal apologies, the offering of material reparations, or some combination of all three, the first task is to create a clear historical record of events and to inscribe that record in the collective memory of the relevant institution or nation.

Of course, the truth is not always easy to discern. Most crimes against humanity are sprawling events, unfolding over months or years and involving vast numbers of actors, who often have very

*In 1997, a Congressman from Ohio introduced a one-sentence concurrent resolution apologizing for slavery: “Resolved by the House of Representatives that the Congress apologizes to African Americans whose ancestors suffered as slaves under the Constitution and the laws of the United States until 1865.” The bill died without coming up for debate on the floor of the House.*

different perspectives, both at the time and in retrospect. Documentation is often in short supply, sometimes because records were not kept, sometimes because they were deliberately destroyed. Even the Holocaust, the most thoroughly organized and documented genocide in human history, has proved to be an elusive affair. Historians today estimate that only about half of those who perished under the Nazis died in death camps, the balance having been shot, stabbed, beaten, worked, or marched to death in a myriad of individual acts of atrocity. Even today, more than sixty years later, historians continue to uncover details of killings long forgotten or suppressed, including most recently a series of murderous pogroms launched by Poles against their Jewish neighbors, some after the war was over.<sup>103</sup>

As such revelations suggest (and as the controversy they have unleashed abundantly confirms), not everyone wishes to have the full truth told. As a general rule, perpetrators and their associates are particularly anxious to see societies “turn the page” on the past. But even after perpetrators have left the scene and the immediate threat of prosecution or retaliation has receded, the idea of unearthing the past often confronts significant opposition from people who fear that such inquiries may threaten their social standing or undermine cherished national myths. Both of these motives can be seen in the Turkish government’s continuing insistence that the Armenian genocide of 1915-1917 never happened, a claim flatly contradicted by thousands of eye-witness accounts, newsreel footage, and an abundant documentary record. (Under current Turkish law, anyone asserting that the genocide occurred is liable to prosecution for the crime of “denigrating Turkishness,” an offense punishable

by up to three years in jail.) This is obviously an extreme example, but the same impulse to evade, extenuate, or deflect the full burden of the past can be seen in many other cases, from Konrad Adenauer’s insistence that the vast majority of Germans had “abhorred” Nazi crimes and played no part in them to the time-honored refrain in New England that slaves in the region were treated kindly.

### **History and Memory**

As these examples show, the struggle over retrospective justice is waged not only in courts and legislatures but also on the wider terrain of history and memory – in battles over textbooks and museum exhibitions, public memorials and popular culture. The steering committee organized many programs around these issues, on topics ranging from the design of Holocaust memorials to the efforts of some citizens of Philadelphia, Mississippi, to come to terms with the murder of three civil rights workers in their community in 1964. Many of these programs focused on the history and memory of American slavery, the focus of the committee’s charge. Speakers discussed the erasure of slavery and the slave trade from New Englanders’ collective memory; the history and mythology of the Underground Railroad; representations of slavery in twentieth-century African American art and literature; the politics of slavery reenactments at historical sites like Colonial Williamsburg; and popular reactions to recent DNA tests that appear to confirm long-standing allegations that Thomas Jefferson fathered children by one of his slaves, Sally Hemings. While different speakers offered different conclusions, all agreed that slavery remains an extremely sore subject for many Americans, white as well as black. If one of the defining features of a crime against humanity is the legacy of bitterness, sensitivity, and defensiveness that it bequeaths to future generations, then American slavery surely qualifies.

### Commissioning the Truth

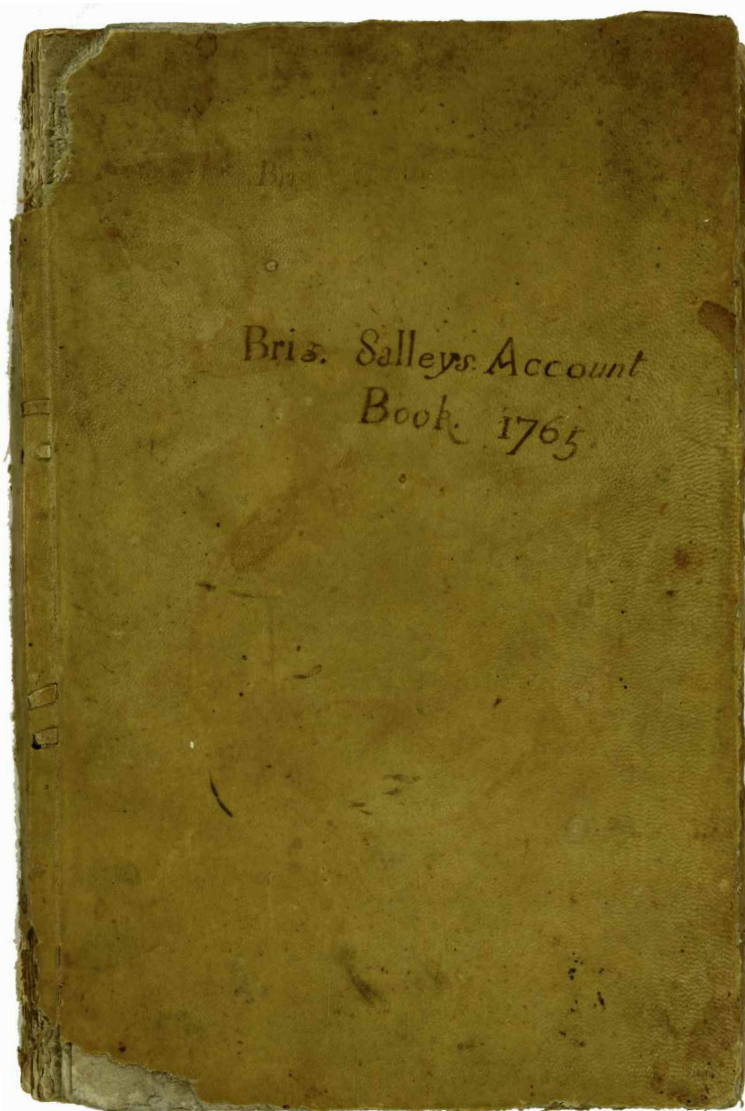
The steering committee also organized several programs on truth commissions, which have emerged in recent years as one of the primary mechanisms for societies seeking to come to terms with atrocious pasts. The best-known example is the South African Truth and Reconciliation Commission, established in 1995 during that country's transition from racial apartheid to democratic rule,

but South Africa is far from alone. Since 1982, at least two-dozen countries have convened truth commissions of one sort or another. While the United States government has never formally convened a truth commission, the model has been used at the national, state, and even municipal level to examine specific historical injustices.

Though the particulars differ, truth commissions typically share certain features. Almost by definition, they are convened in societies that have seen massive violations of human rights, usually perpetrated by the state or its agents, thus creating a need for some kind of extraordinary body, beyond the normal system of judges and courts, to address them. Not surprisingly, they are usually associated with periods of political transition, as societies struggle to erect new, legitimate governments atop the ruins of old, discredited ones. At the same time, they tend to occur in societies in which leaders of the old regime continue to exercise substantial power, rendering prosecution impractical. In some cases, truth commissions have been part of broader reparative justice campaigns, including apologies, reparations payment, and other initiatives designed to promote social repair and reconciliation. In other cases, they have stood alone. In a few instances – Sierra Leone, for example – truth commissions have proceeded alongside prosecution efforts, but in most cases they have been convened in lieu of prosecution. In South Africa, the Truth and Reconciliation Commission was empowered to award amnesty to perpetrators who testified before it as long as they met certain criteria, including a demonstrable political motive and full disclosure of their crimes.<sup>104</sup>

### The Politics of Truth Commissions: the Latin American Experience

How well truth commissions succeed depends in large measure on the political circumstances in which they are appointed, a fact illustrated by the experience of Latin America, which has been the site of no fewer than ten commissions, most convened amidst transitions from military to civilian government. The earliest commissions, appointed to



*Account book for the Sally, recording the ship's transactions on the African coast. The book is deposited, along with other records from the voyage, in the John Carter Brown Library at Brown University.*

determine the fate of thousands of political opponents who “disappeared” during military rule, quickly ran up against the continuing political influence of military authorities and their elite allies. Several were forced to disband before they filed final reports, including the first one, the Bolivian National Commission of Inquiry into Disappearances, appointed in 1982. Argentina’s National Commission on the Disappeared, appointed in 1983, fared somewhat better. The commission’s report included information on some nine thousand disappearances, some of which was used to prosecute officers of the old junta. But growing opposition from the military and parliament forced the government to suspend the prosecutions. Under revised guidelines, officials in the military, police, and government were declared exempt from prosecution so long as they acted in accordance with the orders of superiors – precisely the defense rejected by the International Military Tribunal at Nuremberg four decades before.<sup>105</sup>

Some commissions were designed to fail. The Historical Clarification Commission of Guatemala was asked to investigate crimes committed over the course of a thirty-six-year civil conflict, but it was not given authority to subpoena witnesses or to name perpetrators in its final report. The National Commission for Truth and Reconciliation in Chile began in similarly unpromising fashion. Charged to investigate human rights abuses between the military coup of 1973 and the restoration of civilian rule in 1990, the commission was hampered not only by the blanket amnesty that leaders of the old regime had given themselves but also by the fact that the former president, General August Pinochet, remained commander-in-chief of the Chilean armed forces. Yet despite these obstacles, the commission succeeded in collecting fresh evidence about government crimes, which was later used to overturn the amnesty provision and prosecute some perpetrators. (Because they had disposed of victims’ bodies, chiefly by dumping them in the ocean, military officials were unable to prove that they had actually killed the people they kidnapped, making it possible to prosecute them for “ongoing sequestration,” a crime not covered by amnesty provisions or statutes of limitations.)<sup>106</sup>

### **The South African Truth and Reconciliation Commission**

South Africa’s Truth and Reconciliation Commission is the best known of recent international commissions and the one that best illustrates such institutions’ possibilities and potential limitations. Over a period of two years, the commission, which was chaired by Archbishop Desmond Tutu, collected more than twenty thousand statements from victims of gross human rights abuse, as well as more than seven thousand amnesty applications from perpetrators detailing their crimes. Several thousand of these people testified in public hearings – hearings that were televised nationally and discussed in innumerable public and private forums. The commission’s report, along with volumes of supporting material, was widely distributed and is now an unerasable part of the historical record of the nation.<sup>107</sup>

**But I feel what has been making me sick all the time is the fact that I couldn’t tell my story. But now I – it feels like I got my sight back by coming here and telling you the story.**

Lucas Sikwepere testifying to South Africa’s Truth and Reconciliation Commission about the police shooting that left him blind

Yet the South African process was not without flaws, as several speakers made clear. Many prominent political leaders refused to apply for amnesty or to testify before the commission, calculating (correctly) that the new government would not have the ability or will to prosecute them. The commission also interpreted its mandate in quite narrow ways, not only by confining itself to violations between 1960 and 1993 but also by limiting its attention to crimes that were “politically motivated” – crimes undertaken explicitly to defend or overthrow the apartheid regime. The effect of these decisions, as one speaker noted, was to focus atten-

An elderly Moses Brown, in the unadorned coat and broad-brimmed hat of a Quaker. Portrait by Martin Johnson Heade.

Below, excerpt from Brown's letter to merchants Clark and Nightingale, August 1783, recounting his experience with the Sally.

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to be Concern'd, &  
that if I had known the Gentiments of others, or had their  
concurring Testimonies to those Scruples, I then had, I should  
have been ~~preserved~~ preserved from an Evil, which has given  
me the most uneasiness, and has left the greatest impression  
and stain upon my own mind of any, if not all my other  
conduct in life, and it appears particularly so when I am

tion on the struggle over apartheid and away from the inherent violence and depravity of the apartheid system itself. The creation of great wealth and great poverty; the denial of education; the destruction of families; the multifarious legacies of a half century of racially-driven social engineering, coming on the heels of three centuries of colonialism: All these concerns fell outside the commission's purview.<sup>108</sup>

*Over a period of two years, South Africa's Truth and Reconciliation Commission collected more than twenty thousand statements from victims of gross human rights abuse, as well as more than seven thousand amnesty applications from perpetrators detailing their crimes. The commission's report, along with volumes of supporting material, was widely distributed and is now an unerasable part of the historical record of the nation.*

### **Truth Commissions and Historical Repair**

Yet as several speakers reminded us, the significant fact is not that truth commissions are imperfect but that they happen at all, that facts that in previous generations would likely have been forgotten or suppressed are today discussed and dissected in public forums. Obviously commissions cannot by themselves repair the legacies of trauma and deprivation that crimes against humanity leave behind, but they do create clear, undeniable public records of what occurred – records that provide an essential bulwark against the inevitable tendencies to deny, extenuate, and forget. Perhaps most important, truth commissions offer the thing that victims of gross human rights abuse almost universally cite as their most pressing need: the opportunity to have their stories heard and their injuries acknowledged.<sup>109</sup>

One speaker sought to illustrate the value of truth commissions by posing a counterfactual question: What if the United States had convened a truth and reconciliation commission following

the abolition of slavery in 1865? The question is both anachronistic and unanswerable, but worth pondering. Suppose that large numbers of formerly enslaved African Americans had been given a public forum to describe their experiences in captivity: decades of unremunerated toil; physical and sexual abuse; loved ones consigned to the auction block. Suppose that those who participated in and profited from the institution – a category that included slaveowners and non-slaveowners, northerners and southerners – were likewise asked to account for their conduct. And suppose also that these testimonies were broadcast widely, provoking public discussion and becoming enshrined in the nation's collective memory – in textbooks and public memorials, political speeches and Hollywood films. Would the nation's subsequent history have unfolded as it did? Would discussions about race provoke the misunderstandings and raw feelings that they so often provoke today?<sup>110</sup>

### **Truth Commissions in the United States**

Though the United States has never formally convened a truth commission, the model has been used in more local contexts. The federal commission appointed to investigate the World War II internment of Japanese Americans is the obvious example, but truth commissions have also been established to examine injustices against African Americans. In 1993, the House of Representatives of the State of Florida funded a scholarly commission to investigate the 1923 Rosewood Massacre, a murderous assault on an all-black town by a white mob following (false) reports of the rape of a white woman by a black man. The legislature responded to the commission's report by enacting the Rosewood Compensation Act, providing monetary compensation to families who had lost property in the attack and creating a small college scholarship fund for "minority persons with preference given to direct descendants of the Rosewood families."

(The legislature refrained from offering an apology.) More recently, two cities in North Carolina have staged truth and reconciliation initiatives: Wilmington, where a state-appointed commission investigated the city's 1898 race riot, essentially an armed coup against one of the last municipal governments in the South with substantial black political participation; and Greensboro, where a group of private citizens, acting in defiance of white members of the local city council, convened a commission to investigate the 1979 massacre of union organizers by members of the Ku Klux Klan.<sup>111</sup>

While the North Carolina commissions succeeded in providing information and facilitating dialogue on painful chapters in the state's history, the experience of the Oklahoma state commission appointed to investigate the 1921 Tulsa race riot was more mixed. The riot, which destroyed the most prosperous African American community west of the Mississippi, was one of the bloodiest in American history: An estimated three hundred black people were killed and thousands more were driven from their homes by a white mob armed and deputized by local authorities. The commission succeeded in recovering the truth of an episode that had been completely erased from official histories of the city and state, but its significance as a vehicle of reconciliation was attenuated when the Oklahoma legislature, rejecting one of the commission's primary recommendations, refused to appropriate money to compensate the small number of surviving victims. Bitter survivors responded by filing a class-action reparations lawsuit in federal court. The suit, *Alexander v. Oklahoma*, was dismissed in 2005 on statute-of-limitations grounds.<sup>112</sup>

### **Reparations: Theory and Practice**

As many of these examples reveal, official apologies and truth commissions have often been accompanied by the payment of some kind of compensation or material reparation. Though "reparations" are sometimes dismissed by critics today as a recent innovation, the underlying legal principle is ancient and well-nigh universal: People who suffer injuries and losses through the malicious or culpably-negligent conduct of others have a right to redress

— a right, as far as practicable, to be "made whole." This principle, a cornerstone of common law, has a very long history in cases involving historical injustice. Family members of men and women executed during the Salem witchcraft trials of the 1690s, for example, were paid reparations by the Massachusetts colonial legislature. In recent years, this principle has been widely applied to cases of human rights abuse, with literally scores of different groups around the world receiving reparations of various kinds.

*While most of the speakers entertained by the steering committee acknowledged the importance of redressing injuries, several warned of the danger of "commodifying" suffering, of defining claims to justice in narrowly material terms. Others spoke of the "one-time payment trap," in which a single check is taken to absolve society of any further responsibility for injustice.*

But if the basic principle of reparations is straightforward enough, the application of that principle in specific cases is enormously complex, as various speakers sponsored by the steering committee made clear. What form should reparations take? Who is entitled to receive reparations and who is responsible to provide them? How is the value of an injury to be calculated? What happens to reparations claims with the passage of time? Beneath these practical matters lay deeper moral and political questions. What are reparations intended to accomplish? Are they an end in themselves or one aspect of a broader process of repair and reconciliation? While most of the speakers

entertained by the steering committee acknowledged the importance of redressing injuries, several warned of the danger of “commodifying” suffering, of defining claims to justice in narrowly material terms. Others spoke of the “one-time payment trap,” in which a single check is taken to absolve society of any further responsibility for the legacies of historical injustice.<sup>113</sup>

### **Determining the Medium of Reparation**

The easiest reparations claims to understand, if not always to implement, are simple restitution claims – returning stolen property, looted artworks, sacred relics, and other such personal and cultural property to the rightful owners. Unfortunately, most cases of gross historical injustice do not admit of such tidy resolution. How does one make restitution for a human life or time in a torture chamber? In such circumstances, reparation must be made in some other currency. In the American case, the medium of choice is usually money, but there are abundant examples, in the United States and elsewhere, of reparations being paid in other forms, including land, education, mental health services, employment opportunities, preferential access to loan capital, even the creation of dedicated memorials and museums to ensure that a group’s experience is not forgotten by future generations. In the case of the Tuskegee syphilis experiment, for example, the tendering of a presidential apology to the handful of surviving victims was accompanied by the commitment of federal funds to create a research center in bio-medical ethics on the Tuskegee University campus.<sup>114</sup>

What happens when those representing the interests of victims and perpetrators do not agree on the appropriate form of reparation? The history of Native American land claims illustrates the problem. Native Americans represent something of a special case in reparations theory, not only because of the scope of their injuries but also because of the existence of written treaties to undergird many of their historical claims. In 1946, the U.S. Congress, facing a raft of potential land disputes, created an Indian Claims Commission to hear and resolve all tribal claims against the United States, whether

**Pain can sear the human memory in two crippling ways: with forgetfulness of the past or imprisonment in it . . . too horrible to remember, too horrible to forget: Down either path lies little health for the human sufferers of great evil.**

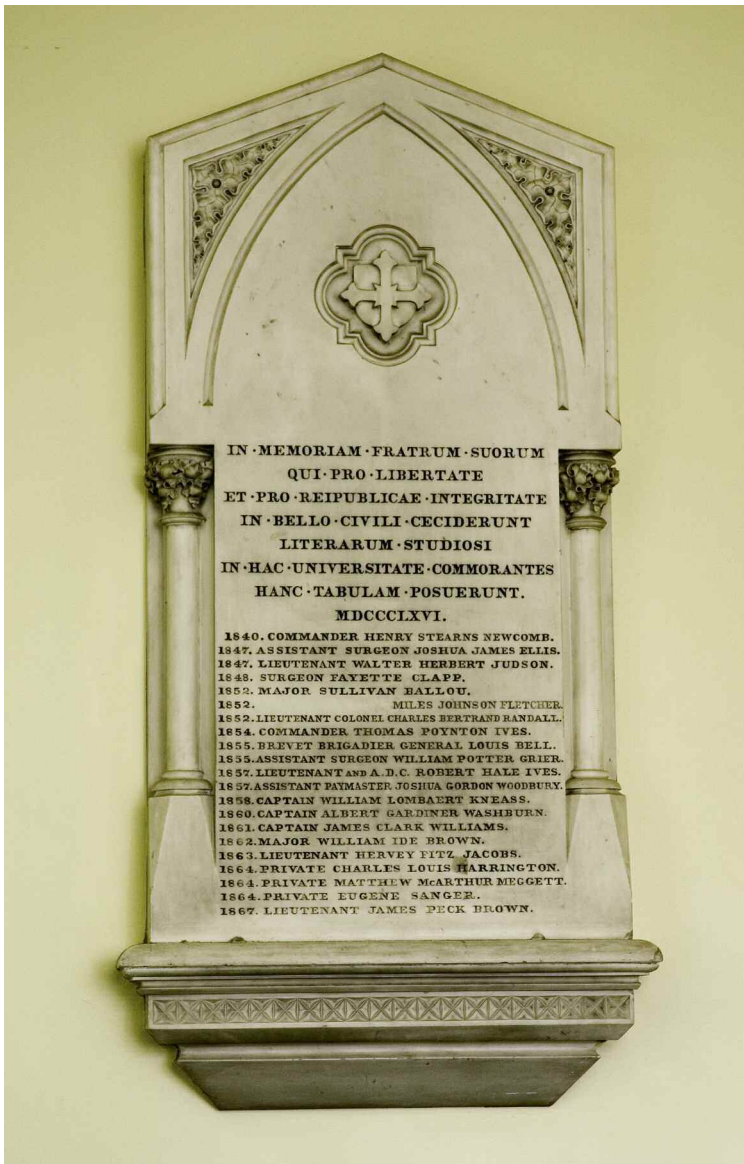
Theologian Donald Shriver, one of the speakers sponsored by the Steering Committee

treaty-based or merely “moral.” The commission, which operated until 1978, was seen by its creators as a gesture of liberality, but it quickly became an adversarial body, enforcing strict eligibility standards and restricting awards to the minimum possible amount. The biggest bone of contention was the commission’s insistence that compensation be paid in money rather than land; to restore stolen land to its original owners, the commissioners reasoned, was both impractical and unfair to the land’s current owners, most of whom had purchased their property legally and in good faith. While many native nations accepted this logic, some did not, most notably the Sioux, who insisted on the actual return of ancestral lands in the Black Hills. With accumulated interest, the compensation awarded by the commission is today worth hundreds of millions of dollars, but the Sioux refuse to accept it, arguing that the Black Hills are sacred space and cannot be bought or sold.<sup>115</sup>

### **Calculating Compensation**

Even where money is accepted as the medium of reparation, the question of determining the appropriate amount remains. Are such payments literally compensation, based on a calculation of actual losses, or are they more symbolic or broadly rehabilitative, in which case everyone in a given class should receive the same sum? The September 11 Victims Compensation Fund pursued the former approach. Created by Congress to forestall potentially crippling litigation against airline companies, the fund has dispensed some \$3 billion, an average





*Memorial to Brown University students who died fighting for the Union during the Civil War. Manning Chapel.*

Most recent reparations programs have taken the second, more symbolic approach. Under the terms of the 1988 Civil Liberties Act, for example, all surviving victims of the Japanese-American internment camps received \$20,000, regardless of their actual losses in property and earnings. The sum of \$20,000, in fact, has become something of a touchstone in the international reparations field. The government of Canada, which also interned citizens of Japanese descent during World War II, paid reparations in the amount of \$21,000, reflecting the greater severity and duration of internment there. The private “atonement” money offered to surviving “comfort women” by the Japanese government in 2001 was the equivalent of \$20,000, as was the sum recommended by South Africa’s Truth and Reconciliation Commission as reparations for victims of gross human rights abuse who had testified before the commission. (The amount eventually appropriated by the South African government was less than \$4,000 per person.) \$20,000 was also the sum recently offered to surviving Native Canadian children who were taken from their families and shipped to white mission schools in the Canadian counterpart to Australia’s forced racial assimilation policy.<sup>117</sup>

of about \$1 million per family, to survivors of the men and women killed in the terror attacks of September 11, 2001. Obviously the fund represents an unusual case in reparations history: The agency providing compensation, the U.S. government, was not responsible for the original offense; the perpetrators, Al Qaeda, have expressed no remorse for their crime nor any interest in repairing the resulting injuries. What makes the fund noteworthy here is both the size of the reparations and Congress’s decision to award different amounts to victims, based on income and a calculation of likely future earnings, a decision that ensured, in essence, that the largest sums went to the wealthiest families.<sup>116</sup>

### **Reparations and the Holocaust**

The conceptual and practical problems inherent in any reparative program are well illustrated by the sixty-year struggle over Holocaust reparations, a struggle in which Americans have played a leading role. In 1947, as the tribunal at Nuremberg completed its work, U.S. military authorities in occupied West Germany imposed the country’s first Holocaust restitution law, providing for the return of real estate, factories, and other property stolen from Jews as part of the Nazi’s “Aryanization” of

the economy. American occupation officials also helped to draft the first model law for paying reparations to individual victims of Nazi atrocities, a step that many U.S. officials held out as a precondition for the restoration of German national sovereignty. In the years that followed, the West German government enacted a series of reparations programs, providing monetary grants and pensions to individual victims and their survivors, with prescribed payments for loss of life, loss of health, losses of property and professional advancement, and other specified injuries. American officials also helped to facilitate the 1952 treaty between West Germany and the state of Israel, providing for the transfer of 3.5 billion DM worth of money, machinery, and other goods to assist in the resettlement of Jewish refugees.<sup>118</sup>

Even with the memory of Nazi atrocities still fresh, many Germans objected to the idea of paying reparations. Critics decried reparations as victor's justice, an exercise in guilt-mongering, even as a Jewish conspiracy against the German nation. In the early days in particular, opponents sought to undermine the program by imposing tight deadlines and strict eligibility standards, including, for a time, a requirement that victims prove that their injuries flowed from "officially approved measures." Entire categories of victims were excluded from receiving reparations, including homosexuals, communists, and victims of the Nazi's vast forced labor regime. Yet even admitting these limitations, the Holocaust programs represent the most ambitious social repair project in history. By the time of German reunification in 1990, the government of West Germany had dispensed some 80 billion DM in reparations, the bulk of it to individual victims and their survivors.<sup>119</sup>

### **Holocaust Litigation in American Courts**

Half a century after the end of World War II, the Holocaust reparations issue was reborn in a new venue: American courts. In 1996, a class-action lawsuit was filed in federal district court in Brooklyn against the three largest private banks in Switzerland, charging them, in essence, with trying to defraud Holocaust victims and their descendants by refusing to release assets deposited in them prior to World War II. (Among other devices, the banks insisted that heirs produce death certificates for deceased account holders, a condition that was impossible to meet in the circumstances of the Holocaust.) Facing protracted litigation and a public relations nightmare, the banks settled the suit for \$1.25 billion. In exchange, plaintiffs agreed to drop all future litigation against the banks, as well as the Swiss government and other Swiss corporations.<sup>120</sup>

Even at the time, there were some who saw the settlement more as a victory for the banks, which escaped future litigation for a relatively modest sum, than for Holocaust victims, the vast majority of whom received only token \$1,000 payments. But the precedent had been set, and more than forty class-action lawsuits followed, all filed in American courts against private corporations alleged to have profited from Nazi atrocities. Most of the suits pertained to the exploitation of forced laborers, a group excluded from previous Holocaust reparations programs. At least ten million people were compelled to work in the Nazi war machine during World War II, including Jews (many of whom labored in a dedicated "extermination through work" program) as well as non-Jews. Fifty years later, more than a million of those people survived, as did many of the companies for which they had labored. Some of these firms had operations in the United States, making them vulnerable to suit in American courts.<sup>121</sup>

Viewed purely in legal terms, the German cases were considerably weaker than the Swiss bank cases. In 1999, courts in New Jersey dismissed suits against Ford Motor Company (whose German subsidiary had employed slave labor during World War II), Siemens, and several other major multi-

national firms, citing the expiration of statutes of limitations as well as terms of the treaties ending World War II. But the barrage of bad publicity, as well as mounting pressure from American political leaders, prompted the companies to offer a settlement. According to the terms of the eventual agreement, German companies, with the assistance of the German government, made a one-time payment of \$7,500 to surviving “slave” laborers, chiefly Jewish survivors of the extermination-through-work program, with smaller payment to other surviving “forced” laborers, chiefly Eastern Europeans. The entire settlement, including a fund for indigent survivors and a small “Remembrance and Future Fund” to promote Holocaust education, totaled about ten billion DM (\$5 billion). In exchange, German companies and the German government were guaranteed “legal peace” from any further litigation in American courts. Appreciating the value of such an arrangement, the government of Austria and Austrian corporations immediately offered a forced-labor settlement of their own, valued at \$500 million, or one-tenth of the value of the German settlement.<sup>122</sup>

### **Limits of Litigation**

We shall return to the Holocaust reparations litigation, which served as the direct inspiration and model for a series of class-action lawsuits brought in the early 2000s by African Americans seeking reparations from American corporations alleged to have profited from slavery and the slave trade. In the present context, the Holocaust example is useful for illuminating the possibilities and pitfalls of litigation as a vehicle for pursuing reparations claims. As the Swiss and German suits showed, litigation often generates publicity, raising awareness of an injustice and increasing public pressure for action. Being linked to atrocious crimes can also be embarrassing to corporations, perhaps inducing them to settle. Should defendants refuse to settle, however, the impediments to successful reparations litigation are enormous, at least in American courts. As several of the speakers invited to Brown by the steering committee noted, reparations lawsuits, whether directed against the federal govern-

*Some speakers questioned not only the practicality but also the wisdom of pursuing historical redress through litigation.*

*While acknowledging that reparations suits are often filed as a last resort, these speakers suggested that courts of law, with the inherently adversarial structure, their focus on past injuries, and their narrow conceptions of “injury” and “settlement,” are precisely the wrong venue for promoting reconciliation and a better future.*

ment or private corporations, face a host of procedural hurdles before they can even be heard on the merits, including the government’s sovereign immunity from suit, expired statutes of limitations, problems of establishing standing and a justiciable case (essentially the need to establish a link between a specific injury in the past and a specific plaintiff in the present), and the so-called “political questions” doctrine (the idea, first articulated by John Marshall in the 1820s, that courts have no business intervening in matters properly belonging to the legislature). Some of these obstacles might be overcome: Congress has the authority to waive sovereign immunity and extend statutes of limitations; courts can be more or less strict in interpreting standing or the meaning of political questions. But in the present political circumstances, it is very difficult to imagine lawsuits seeking reparations for slavery or other historical injustices making any headway in American courts.

Some of the scholars invited by the steering committee went further, questioning not just the practicality but also the wisdom of using litigation as the medium for confronting questions of historical injustice and social repair. While acknowledging

that reparations suits are often filed as a last resort, these speakers suggested that courts of law, with their inherently adversarial structure, their focus on past injuries, and their narrow conceptions of “injury” and “settlement,” are precisely the wrong venue for promoting reconciliation and a better future. Not only does litigation risk pulling people into the “one-time payment trap,” but it also creates no opportunity for dialogue, for the descendants of victims and of perpetrators to exchange perspectives and to develop shared understandings of their past experience and present predicament. Such speakers were certainly not disavowing reparations per se, or the moral and political urgency of confronting legacies of injustice, but rather attempting to move a debate currently waged on narrowly legalistic grounds onto the broader terrain of history, memory, and moral obligation.<sup>123</sup>

### **Reparations Claims and the Passage of Time**

Every exercise in retrospective justice is unique, as are the horrors that prompt it. Yet great historical crimes have at least one thing in common: All direct participants, both perpetrators and victims, eventually die. Their passing raises one final, thorny set of questions. What happens to reparations claims with the passage of time? Are the descendants of victims of gross human rights abuse ever entitled to redress (as they would be, say, in the case of a stolen painting) or do all such claims die with the original victim? Is the responsibility to make reparation ever handed down, or is that obligation also expunged after one generation? What about crimes – such as slavery and the transatlantic slave trade – that produced great wealth? Are the descendants of those responsible free to enjoy the fruits of injustice simply because they took no part in the original offense? All of these questions have both legal and ethical dimensions. They also have obvious relevance to the current American debate over reparations for slavery, an institution that ended in the United States before all currently living Americans were born.

If recent public opinion polls are any guide, a large majority of Americans, or at least of white Americans, are extremely skeptical of historical claims, insisting that only those who directly perpetrated an injustice can be held responsible for it and that only those who directly experienced the injustice have a right to reparation. This standard has the virtue of clarity. As vexed as reparations claims involving living victims can be, the conceptual and practical problems presented by multi-generational cases are far greater. Specifying the nature of the injury; determining the appropriate form of reparation; establishing the boundaries of the class of eligible recipients: All these prob-

*As vexed as reparations claims involving living victims can be, the conceptual and practical problems presented by multi-generational cases are far greater. But there are also obvious problems with limiting one’s moral and political concern to “current” injustices. Not only does such a standard ignore the profound and lasting legacies of crimes against humanity, but it also invites societies emerging from atrocious pasts to temporize.*

lems and more escalate as the original offense becomes more remote in time. But there are also obvious problems with limiting one’s moral and political concern to “current” injustices. Not only does such a standard ignore the profound and lasting legacies of crimes against humanity – an issue to which we shall return – but it also invites societies emerging from atrocious pasts to temporize, to delay confronting historical injustice until all victims and perpetrators have passed away, at which point it becomes “too late” to act. Consider again those Korean “comfort women,” doggedly

insisting on their rights to an unequivocal apology and state-funded reparations from the government of Japan for the horrors they experienced during World War II. These people are the direct victims of atrocious crimes. But the people upon whom their demands fall – the current government and population of Japan – are not, except in a tiny number of cases, direct perpetrators. Indeed, the vast majority of Japanese people were not yet born

when the offenses occurred. Does this fact absolve them of all moral obligation? Will delaying another decade or two, until all the women are dead, absolve them?

### **Time, Responsibility, and the ‘Immigrant Problem’**

Such questions turn not only on the meaning of time but also on our understanding of the nature of responsibility. As several speakers noted, one of the distinctive features of the current slavery reparations controversy in the United States, particularly when compared to retrospective justice debates in other societies, is its narrowly individualistic cast. Is person A responsible to pay reparations? Is person B entitled to receive them? To some extent, this reflects the legalistic terms in which the debate has recently been waged, but it also bespeaks a deeply individualistic strain in American culture. Yet societies, even societies like the United States, are not merely aggregations of individual atoms colliding in space. We live in communities, many of which began before we were born and will continue after we die. We are members of families, students and teachers in universities, employees of corporations, adherents of religious organizations, members of voluntary associations, and citizens and residents of cities, states, and a nation. We draw a host of material and nonmaterial benefits from these affiliations. To study or teach at an institution like Brown, to live in a country like the United States, is to inherit a wealth of resources and opportunities passed down from previous generations. Is it so unreasonable to suggest that, in assuming the benefits of these historical legacies, we also assume some of the burdens and responsibilities attached to them?

This question also casts light on the “immigrant problem,” which is frequently cited in popular discussions in the United States as an unanswerable objection to historical redress claims. As critics of slavery reparations note, a majority of the people living in America today are either immigrants or descendants of immigrants who entered the country after the final abolition of slavery in 1865. What possible responsibilities can people bear for



*Gravestone of “Pero, an African Servant to the late Henry Paget,” and one of four enslaved Africans to work on the construction of the College Edifice, what is today University Hall. North Burial Ground, Providence.*

an institution that ended before their ancestors even arrived in the country? Yet as several visiting speakers argued, the issue is more complicated than it initially appears. In the first place, immigration and naturalization were not privileges accorded to all. One of the very first laws enacted after the adoption of the U.S. Constitution, the 1790 Naturalization Act, specified that only immigrants who were “free and white” could become American citizens. This linking of race and citizenship was a direct outgrowth of slavery, and it persisted, for most practical purposes, until the 1950s and ’60s. In the second place, immigrants came to the United States chiefly because of the wealth and opportunity it offered – wealth and opportunity piled up by the labors of previous generations of Americans, including the unpaid labor of slaves. To be sure, newly arrived immigrants endured discrimination and hardship, but they also drew immediate and

substantial benefits from these accumulated assets. They drank from municipal water systems, walked city streets, and sent their children to public schools, all of which had been built by the labor and taxes of previous generations. In accepting these benefits, they also accepted certain responsibilities. Immigrants were (and are) required to pay taxes on the national debt, for example, even though that debt was accumulated before they entered the country. The underlying principle – that one who assumes the benefits of a legacy also assumes any attendant liabilities – is the same whether one is an immigrant or a native-born American.

Whether slavery constitutes some kind of historical burden or liability on the current generation of Americans is, of course, a question on which different people have sharply different opinions. It is also one of the central questions in the slavery reparations debate, to which we now turn.

*"Many Thousands Gone"*  
by Marianetta Porter



**SOUTH-CAROLINA  
GAZETTE**  
MAY 11, 1788

**RUN AWAY** THE 4TH INST. A LIKELY FELLOW, NAMED TOM, WHO SPEAKS VERY GOOD ENGLISH, AND HAD ON WHEN HE WENT AWAY, WHITE PLAINS CLOTHING ALMOST NEW, ONE LEG GALLED BY WEARING A SPUR. HE IS HARBOURED ABOUT MR HARVEY'S ON WAPPPOG, AND IN TOWN AND ON TOWN NECK, GENERALLY AT MR ELLIOT'S AND MR ROSE'S. WHOEVER APPREHENDS HIM OR INFORMS WHERE HE MAY BE APPREHENDED, SHALL BE REWARDED WITH 5 L. BY  
THOMAS DRAYTON



**SOUTH-CAROLINA  
GAZETTE**  
JULY 18 TO JULY 27, 1781

**RUN AWAY** FROM THE SUBSCRIBER, ABOUT 12 MONTHS AGO, A FINE NEGRO MAN NAMED TOM, WELL KNOWN IN CHARLES-TOWN, WHOSE HE ALWAYS LIVED AND CURRENTLY BELONGED TO MR WENTWORTH. 'TIS SUPPOSED HE IS HARBOURED BY SOME NEGROES ON ANNETT-BAY. WHOEVER APPREHENDS THE SAID NEGRO, AND DELIVERS HIM TO ME IN CHARLES-TOWN, SHALL HAVE 1 L. REWARD AND WHOSOEVER CAN AND WILL PROVE THAT HE HAS BEEN HARBOURED BY ANY NEGRO PERSON, SHALL RECEIVE A REWARD OF 5 L. WHOEVER RETURNS IN ONE MONTH FROM THE 17TH OF JULY 1781, AND BRINGS HIM TO ME, SHALL BE REWARDED.

THOMAS LEWIS



**SOUTH-CAROLINA  
GAZETTE**  
JUNE 19 TO JUNE 26, 1781

**RUN AWAY** FROM THE SUBSCRIBER, ABOUT TWO MONTHS AGO, A NEGRO MAN NAMED CAESAR, HAD ON BROWN NEGRO CLOTH GOWN AND TROUSERS, HAS HIS COUNTRY (GAMBIA) MARKS ON HIS CHEEKS AND TEMPLES, WITH A REMARKABLE SCAR ON HIS RIGHT LEG. WHOEVER TAKES UP THE SAID NEGRO, AND DELIVERS HIM TO ME IN ST. THOMAS'S PARISH, OR TO THE WARDEN OF THE WORK HOUSE IN CHARLES TOWN, SHALL HAVE TEN POUNDS REWARD; BUT WHOEVER HARBOURS, ENTERTAINS OR CONCEALS HIM, MAY EXPECT TO BE PROSECUTED, BY  
ALEXANDER GARDEN

# *Confronting Slavery's Legacy: The Reparations Question*

**A**S WE HAVE SEEN, the quest for retrospective justice is a global phenomenon, with a host of different groups proffering claims for some form of acknowledgement or material consideration for historical injuries. In the United States alone, legislatures and courts have entertained reparations claims from Japanese Americans interned during World War II; indigenous Hawaiians seeking compensation for lost land and sovereignty; Native Americans seeking the return of ancestral land and sacred relics; Korean “comfort women”; American veterans subjected to severe abuse in Japanese prisoner-of-war camps during World War II; descendants of victims of the Armenian genocide pursuing unpaid insurance claims from American corporations; Jews and non-Jews compelled to work as slave laborers by the Nazis; families of Holocaust victims seeking the return of art work, bank deposits, and other assets stolen during World War II; and the families of people killed in the 9/11 terror attacks, to name only some of the recent cases. But the claims that have generated the most controversy – the claims that most Americans immediately think of when they hear the word “reparations” – are those advanced by African Americans seeking redress for the injuries of slavery.<sup>124</sup>

## **The Modern Reparations Debate and Brown University**

While debates over reparations for slavery have a long history in the United States, the recent salience of the issue can be traced to the 1990s. Inspired in part by the successes of other historical redress movements, a growing number of African American individuals and groups began to press for reparations for the injuries of slavery and the

transatlantic slave trade. The resulting debate, unfolding in legislatures, federal courts, and in the court of public opinion, has proceeded along distinctly racial lines. Contrary to some media portrayals, not all African Americans advocate slavery reparations. Many regard the idea with indifference; some are vociferously opposed. But when surveyed on the matter, a majority of black Americans express support for some form of reparations for slavery – somewhere between half and two-thirds, depending on how the question is posed. White Americans, in contrast, are almost unanimously opposed – and often intensely hostile – to the idea, particularly when the question centers on monetary payments. The most systematic study, conducted by scholars at Harvard and the University of Chicago, found that just four percent of white respondents believed that “the Federal Government [should] pay monetary compensation to African Americans whose ancestors were slaves.”<sup>125</sup>

Just as Brown was an important terrain in the eighteenth- and nineteenth-century battles over slavery and abolition, so did it find itself thrust into the middle of the modern slave reparations debate. In 2001, conservative author David Horowitz placed a paid advertisement, “Ten Ideas Why Reparations for Slavery is a Bad Idea – and Racist Too,” in college newspapers around the country, including the *Brown Daily Herald*. As its title suggests, the advertisement offered a series of arguments against reparations: that black as well as white Americans had benefited economically from slavery; that reparations had already been paid in the form of



“welfare benefits and racial preferences”; that “most Americans have no connection (direct or indirect) to slavery”; that the continuing “hardships” of some African Americans were a “result of failures of individual character rather than the after-effects of racial discrimination and a slave system that ceased to exist well over a century ago.” The appearance of the advertisement provoked controversy on several college campuses, nowhere more than at Brown, where a group of student protestors demanded that the *Herald* print a retraction or at least relinquish the money it had received to run the ad. When the editors refused, some of the protest-

*The theft of the newspapers by student protestors was widely cited in the national media as evidence of Brown’s failure to nurture the free exchange of ideas. Among the newspapers chiding the University was the New York Times, which noted that “overlooked in much of the uproar over [the Herald’s] publication of the advertisement is the deeper national debate on reparations over slavery, which could have found fertile ground for discussion on this campus.”*

ers stole an entire day’s press run of the paper. The story of the theft appeared the next day in newspapers all across the United States, often accompanied by editorials pillorying Brown for its failure to protect the free exchange of ideas. Among the newspapers chiding the University was the *New York Times*, which noted that “overlooked in much of the uproar over [the *Herald’s*] publication of the advertisement is the deeper national debate on reparations over slavery, which could have found fertile ground for discussion on this campus.”<sup>126</sup>

The issue resurfaced at Brown in 2002, with the filing of the first in a series of class-action lawsuits by descendants of African American slaves seeking monetary damages from private corporations alleged to have profited from slavery and the slave trade. As fate would have it, the first defendant in the first suit was FleetBoston, a bank whose lineage traces back to the Providence Bank, founded by the four Brown brothers in 1791. While Brown was not a named party in the action, it was mentioned (along with Harvard) in the narrative portion of the complaint as an example of a wealthy institution with assets derived from slavery and the slave trade. A few days later, Harvard University Law Professor Charles Ogletree, chair of a recently-established Reparations Coordinating Committee, published an opinion essay in the *New York Times* announcing that Brown, Yale, and Harvard were all “probable targets” of a lawsuit to be filed by his organization later that year.<sup>127</sup>

The threatened lawsuit was never filed. As for the other suits, federal courts have dismissed virtually all of them on various procedural grounds. At this writing, there seems to be little chance that federal courts will entertain slavery reparations claims. But this outcome was not clear when the steering committee began its work, which doubtless accounts for some of the public interest aroused by news of the committee’s appointment.

### **Reparations in Historical Perspective**

In keeping with its charge from President Simmons, the steering committee devoted a great deal of attention to the slavery reparations issue. We organized several programs on the topic, hosting public addresses by prominent supporters and critics of reparations, as well as by scholars studying the issue’s legal, theological, political, and philosophical underpinnings. Our goal, again in keeping with our charge, was not to resolve the issue but rather to “provide factual information and critical perspectives” to enrich discussion of the issue on our campus and in the nation as a whole. As our research proceeded, we became particularly interested in the historical roots of the reparations issue, a context that is almost completely ignored

**And when thou sendest him out free from thee, thou shalt not let him go away empty: Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the LORD thy God hath blessed thee thou shalt give unto him. And thou shalt remember that thou wast a bondman in the land of Egypt, and the LORD thy God redeemed thee: therefore I command thee this thing to day.**

Deuteronomy 15: 13-15

in the current controversy. What actually happened when slavery was abolished, first in northern states like Rhode Island and later in the American South? What burdens did slavery impose – not simply on the formerly enslaved, but on the nation as a whole – and what attempts were made to alleviate them? What forms have demands for redress taken at different times, and what responses have they elicited? In short, where did the reparations issue come from?

Probably the most striking thing that our investigation revealed was just how long the debate has raged. In both the North and the South, the post-emancipation years saw widespread acknowledgement of slavery's terrible legacy, as well as a variety of proposals for remedying it, from the colonization of black people beyond the borders of the United States to programs of land redistribution and publicly-funded education. A few such programs were begun. But in the end, very little was done to compensate the newly free for their years of unremunerated toil and still less to bridge the racial chasm that slavery had carved in the nation. On the contrary, the years after abolition saw an intensification of white racist attitudes, accompanied by the enactment of policies designed to ensure continued black subordination and to perpetuate the economic disparities inherited from slavery. What bearing this history has on current reparations demands is an issue on which different readers will draw different conclusions, but it certainly deserves to be entered into the debate.

## **Reparations Arguments in the Eighteenth Century**

Surely the most common misconception about the slavery reparations issue is that it is new – a “scam” (in the words of a recent *Providence Journal* editorial) “devised by trial lawyers to keep the victim industry humming and themselves rich.” In fact, the debate reaches back to the eighteenth century, with Providence as one of the main theaters. The Quakers who spearheaded the anti-slavery movement in Rhode Island were virtually unanimous in insisting that manumitted slaves were entitled to reparations from their masters, finding warrant in Scripture (particularly the Book of Deuteronomy, which enjoins masters to share their estates with former slaves as a show of respect and appreciation) as well as in the demands of plain justice. If holding another person in slavery was sinful, the Quakers reckoned, then surely perpetrators should atone for the offense by offering some kind of amends to their victims. Moses Brown had not yet been formally admitted to Quaker meeting when he manumitted his slaves in 1773, but he recognized this obligation, providing his former slaves with access to land and a promise of education for their children.<sup>128</sup>

In 1783, the Massachusetts legislature entertained one of the earliest extant reparations petitions. The appellant was an aged African-born woman named Belinda, who sought a small portion of the estate of her erstwhile master, Isaac Royall. A British loyalist, Royall had fled Massachusetts shortly after the battles of Lexington and Concord. His property was confiscated by the legislature, and Belinda, who had served him for forty years, became free. But she was old and without any means to provide for herself and her invalid daughter, forcing her to turn to the state. While the petition's authorship is unclear – other sources suggest that Belinda was illiterate – there is no doubting the power of the words, which traced her life from her capture in Africa to her current plight, in which, “by the very laws of the land, [she] is denied one morsel of that immense wealth, a part whereof hath

been accumulated by her own industry, and the whole augmented by her servitude.” Whether motivated by sympathy, principle, or the pleasure of disbursing the estate of a disgraced Loyalist, the Massachusetts legislature awarded Belinda and her daughter a £15 annual pension, though it is unclear how long the payments were made.<sup>129</sup>

*The 1784 Rhode Island Gradual Abolition Law specified that the children of slaves were to be “instructed in reading, writing, and Arithmetic” at public expense. A year later, however, the legislature amended the law, after towns protested that providing “Support and Education” to the children of slaves was “extremely burthensome.”*

### **Freedom Dues and the Problem of Gradual Abolition**

The idea that former slaves were entitled to reparations would not have seemed outlandish to most eighteenth-century Americans. In a society in which individual towns were responsible for the indigent, it was customary to provide the newly free with some form of provision to ensure that they did not become “chargeable” to the public. Apprentices acquired marketable skills as well as an elementary education. Indentured servants received “freedom dues” upon the end of their terms, typically land and a suit of clothes, to mark their new status. The question, put simply, was whether black people emerging into freedom would receive similar consideration. The problem was complicated, in Rhode Island and in most other northern states, by the nature of the gradual abolition process. Rhode Island’s abolition law freed no one, but merely specified that individuals born in the state after March 1, 1784, would be free. The issue of slavery reparations was thus entangled with the immediate question of providing for the maintenance of small children whose parents, or at least mothers, were still enslaved.

The Rhode Island legislature recognized the problem, and debated how to address it. In the original Gradual Abolition Act, infants were left in the care of their mothers, while the responsibility for supporting them was placed on individual towns. This responsibility included a publicly-funded education. In a passage that clearly bore the imprint of Moses Brown, the act specified that “such Children be educated in the Principles of Morality and Religion, and instructed in reading, writing, and Arithmetic” – a promise that routinely appeared in indenture agreements involving white children, but that had never previously been applied to black children. A year later, however, the legislature amended the law, after towns protested that providing “Support and Education” to the children of slaves was “extremely burthensome.” The new act shifted the onus back onto individual masters, who became responsible for the upkeep of their female slaves’ freeborn children. To compensate the masters for assuming these costs, as well as for the loss of valuable property, the amended law required such children to serve their mothers’ owners – in effect, to serve as slaves – for terms of twenty-one years. The amended law said nothing about compensating or educating the newly free. The promise of publicly-funded education simply fell away.<sup>130</sup>

### **After Slavery: Free People of Color in Rhode Island**

In the end, Rhode Island’s newly free received nothing, entering society not as independent citizens but as quasi-slaves, members of an impoverished and degraded class. A kind of self-fulfilling cycle was created, with blacks’ degraded condition offering seeming proof of prevailing assumptions about their innate inferiority and dependence, thus justifying continued discrimination against them. Racial lines hardened. Free people of color faced exclusion from public facilities and all but the most menial jobs. They were subject to a nightly curfew, enforced by white patrols, and required to “bind out” their children as apprentices, as insurance against “idleness.” In 1798, the Rhode Island legislature, alarmed by an apparent increase in the free

# Grand Bobalition of Slavery .

Grand and most helligunt Selebrashum of de Bobalition of Slabery in de Nited Tate ob Neu Englunt, and commonwet of Bosson in de country of Massa-chuse-it.



*Bobalition' broadside, New England, ca. 1830. A common form of racist caricature, such broadsides mocked black pretensions to freedom and citizenship.*

black population, made it more difficult for masters to free their slaves, while also increasing the penalties for anyone caught abetting fugitives. Another law, passed the same year, prohibited the marriage of “any white person with any Negro, Indian, or mulatto.” (The law apparently did not prevent sexual congress across the color line, since two years later the legislature barred black women, free or slave, from bringing paternity suits against white men.) Rhode Island was also one of two New England states to racialize the franchise. In 1822, a six-person committee of the legislature (including five Brown alumni and two members of the Brown Corporation) inserted the word “white” into the state’s voting laws, disfranchising even the small number of black men who met the property qualification.<sup>131</sup>

In Rhode Island, as elsewhere, the impulse to exclude free black people existed in counterpoint with the impulse to control them. During slavery, most black people lived in or near their masters’ homes, ensuring close supervision. The emergence of distinct black neighborhoods after emancipation

generated great anxiety among whites, who saw such districts as dangerously disorderly, vice-ridden places. The result, in cities all across the North, was a wave of “race riots” – essentially pogroms, in which white mobs rampaged through black neighborhoods, burning buildings and beating inhabitants. Providence experienced two such riots. Hard-scrabble, an aptly named black neighborhood, was attacked by a mob in 1824. Snow Town was razed seven years later. Victims of the attacks were not compensated for their losses, nor were the perpetrators punished for their crimes. The Hard-scrabble rioters were prosecuted, but they escaped with acquittals or token sentences after a rousing speech by their defense attorney, Joseph Tillinghast, a Brown alumnus and future member of the Brown Corporation, who compared the destroyed neighborhood to “ancient Babylon,” with its “graven images” and “idolatrous rites and sacrifices.” Hard-scrabble, Tillinghast declared, was a “nuisance” and “sink of vice” whose destruction was a “benefit to the morals of the community.”<sup>132</sup>

4177  
1827

# Hard Scrabble,

## OR MISS PHILISES BOBALITION

O Dear dear what can the de matter be,  
Dear, dear what can de matter be,  
Pomp gone so long from Phillis away ;  
He promise to buy me a damask and leghorn,  
A Plad and a Crape and Silk Tocking to put on,  
And a bunch of fine feather to dress my beaver so gay  
O Dear, dear, &c.

O, O, so peaceable late we lib in Hard Scrabble,  
'Till routed and driven away by the rabble,  
Who 'tack us like furies wid a high diddle diddle !  
Demolish our dwelling, smash Beaurau and Cradle,  
My Gin Jug and Spider, my Potrait and Ladle,  
My Candlestand, Chairs, and poor Pompey's Fiddle.  
O Dear, dear, &c.

O! O! such a time I neber before see,  
De Mobites come wizz ! like a flock of mad bumble bee  
Rip open my bed and scatter de fedder !  
Assail us wid Brick Bat, wid Crowbars and Shovels,  
And drove us poor wretches away from our hovels  
To seek shelter out door expose to de wether.  
O Dear, dear, &c.

Pomp and I had juss supt on a clam and eel custard,  
And just topping off wid desert of tose cheese & mustard  
When first salutation widout a forewarning—  
Ebery window was smash in, and, O, goody gui !  
Pomp leap from de table and cry ' Fly Phillis Fly,'  
Or we both shall be mutton'd before morrow morning.  
O Dear, dear, &c.

O, de next morning such condition our village,  
So late de scene of confusion, riot and pillage.  
O! it near broke de heart of my poor aged mother !  
De chimnies and walls were den totling or falling,  
Pōor Cato's hut prop't up, and Cezer's lay sprawling,  
And ours' goody gui ! nothing left but de cellar!  
O Dear, dear, &c.

De mud Clay & brick dust lay so thick in Hard Scrabble  
I was 'blige hold up my skirt to prevent it from drabble  
And de fields for a mile was spread wid hen fether ;  
Here lay my new bedtick and dare Pompey's garter  
And my platter and Coffee Cup bury'd in Mortar,  
In miscurious ruin all lay together.  
O Dear, dear, &c.

Pomp has told me of Earthquakes Squall and Tornadoes  
Trenarners, Harricanes, Gusts and Vulcanose,  
Of battle at sea. and battle on shore ;  
Of Turks and of Hottentots, Indians and Moors,  
Of Rygers and Crocodiles Lions and Bores,  
But he neber fore saw such destruction before.  
O Dear, dear, &c.

Some few weeks arter some were reign for a trial,  
Dare were Peter and Moses and Jim and Abial,  
And some forty or tirty or twenty or so ;  
But de damage 'twas judge was by some shock of nature,  
Mr. Nobody did it ! O what a wile creature,  
So de court find um No Guilty and tell um to go.  
O dear what a Rogue Mr. Nobody.

Mr. Nobody, wretch ! some invisible d-v-l  
De biggest brick block in a moment he level  
See what he did bout tre months ago ;  
He demolish a bilding near four stories high,  
And level the whole in a twink of an eye,  
Pray who did it ? Why Nobody know.  
O dear, dear, &c.

I guess it best now for us brack folks be easy,  
And no longer live lives immoral and lazy,  
But gain honest living by sweat ob our brow ;  
Depend on't de white folk won't den trouble or 'tack us,  
But de good péople of Providence will always respec us,  
As they are wont to respec all good people now.  
O dear, dear, &c.

So Miss Boston keep home your lazy black rabble.  
Nor compel them seek shelter again at Hard Scrabble,  
For every maggot should stick to he core ;  
For should they visit us gain they may find it foul wether  
We've plenty of Tar and de ground cover'd wid Fether  
And we've Pitch to pitch you all out of door.  
O dear, dear, &c.

So while Pomp earn a little by honest day labour,  
I'll wash and make soap for some of my neighbour,  
And lib by industry as honest folks do :  
Pomp throw by your Fiddle & I'll smash de Gin Bottle  
And soon we'll be able to build up our hovel  
And more steady course we both will pursue.  
O dear, dear, and so fort.

Sold Wholesale and Retail at No. 152, Ann-Street—Boston.

Broadside, ca. 1824, ridiculing victims of the Hardscrabble riot and promising the same to other black people settling in the city.

### **Black Rhode Islanders and the Quest for Education**

Black Rhode Islanders did not simply submit to this regime. They created businesses, organized churches and benevolent societies, and defended their right to urban space. The Hardscrabble riot, for example, was sparked by a group of black men refusing to cede the sidewalk to a group of approaching whites. Above all, they sought education. Denied the publicly-funded education pledged in the original act of abolition and excluded from most private academies, blacks in Providence launched a subscription campaign to build a school of their own. The fruit of their efforts was the “African Union Meeting and School-House,” which opened in 1821, on land donated by Moses Brown.<sup>133</sup>

After decades of petitions and proposals, the Rhode Island state legislature finally created a system of public education in 1828. But the system was racially segregated, with blacks in Providence confined to a single overcrowded school offering only elementary instruction. The segregated system persisted until the late 1850s, when black citizens, inspired by successful litigation in neighboring Massachusetts, launched a campaign to integrate public schools. In 1858 and ’59, as the nation tumbled toward civil war, the politics of Rhode Island were consumed by the debate, the terms of which eerily anticipated the struggle over integrating southern schools a century later. While proponents of integration spoke of the principles of democracy and the benefits of mingling “different classes of children,” their more numerous opponents dismissed the proposal as the work of irresponsible “new comers and agitators.” Integrationists “would see our public schools quite broken up, and our means of public education quite destroyed, rather than that one little nigger boy should be compelled to go to the school that has been assigned to him,” the editors of the *Providence Journal* opined. “Nor is it proper,” they added in a subsequent editorial, “that our public education, supported at such great cost, should be made subordinate to any theories of a social equality that does not exist and never has existed... [S]eparation of the negro children from the white children... is best for both.”<sup>134</sup>

### **Abolishing Southern Slavery, 1862-65**

The struggles over the meaning of black freedom in Rhode Island and other northern states would be repeated, in different terms and on a vastly greater scale, in the American South. Southern slavery did not end through gradualist legislation but in the context of civil war. In April 1862, a year after the commencement of hostilities, the U.S. Congress passed the Compensated Emancipation Act, abolishing slavery in the District of Columbia. The compensation referred to in the title went not to the newly free but to their former owners, who received, on average, \$300 from the federal government for each emancipated slave. Six months later, President Abraham Lincoln issued the preliminary Emancipation Proclamation, to take effect on January 1, 1863. As numerous historians have noted, the proclamation freed no one immediately; its provisions applied only to regions still in rebellion, leaving slavery intact in the border states and other areas under Union occupation. Even so, the proclamation radically altered the character of the war, transforming the advancing Union Army into

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an army of liberation. The proclamation also included provisions for enlisting black soldiers, nearly a quarter million of whom eventually served in Union forces, further consolidating black claims to freedom and citizenship. With the ratification of the Thirteenth Amendment to the U.S. Constitution in December 1865, slavery in the United States was formally abolished, and four million men, women, and children became free.<sup>135</sup>

### **Reconstruction and the Reparations Question**

The Civil War was followed by the era of Reconstruction. While much about the period is disputed, certain facts are clear. In the immediate aftermath of the war, southern legislatures, still dominated by the old planter class, sought to recreate slavery by other means, imposing curfews, vagrancy statutes, and other “Black Codes” designed to restrict the physical and economic mobility of the newly free. This period was followed, from 1867 to 1876, by Congressional, or Radical, Reconstruction, which saw an attempt to extend basic rights of citizenship to African Americans. These years were highlighted by the adoption of two more amendments to the U.S. Constitution: the Fourteenth Amendment, which barred states from discriminating on the grounds of race, color, or prior condition of servitude; and the Fifteenth Amendment, which prohibited states from imposing racially-based restrictions on voting. Over the next few years, southern blacks entered the political system, voting and serving in public office, including in the U.S. House of Representatives and U.S. Senate. The enfranchisement of African Americans generated bitter controversy. As in the post-emancipation North, the racial ideas forged in the crucible of slavery did not simply disappear with abolition; on the contrary, they became sharper, as white southerners found themselves forced to compete economically and politically with their former bondsmen. The result was a concerted campaign of violence and intimidation, culminating in the restoration of avowedly white supremacist regimes in all

of the southern states. With the withdrawal of federal troops from the South in 1877, the Reconstruction experiment was essentially over.<sup>136</sup>

Though the term “reparations” was rarely, if ever, used, emancipation triggered a wide-ranging debate over how and whether to provide for the newly free, a debate that began while the war was still going on and continued even after the collapse of Reconstruction. For some, including Abraham Lincoln for a time, the solution appeared to lie in government-subsidized colonization. Convinced that white southerners would never accept their former slaves as political equals, colonizationists argued that it was in black people’s own interests to leave America and start afresh in a country of their own. Others insisted that African Americans had a fundamental right to remain in the United States, sharing in the wealth and opportunity that their unpaid labor had helped to create. A few argued that freedpeople were entitled to receive back wages for their years in slavery, offering various calculations of the amount due. At least one freedman sent a bill to his former owner for his years of unpaid labor. In the end, however, the reparations debate after the Civil War came to focus on land – the proverbial “forty acres and a mule.”<sup>137</sup>

### **Forty Acres and a Mule**

Few phrases in American history evoke such passion – or such disparate understandings – as forty acres and a mule. For many whites, at the time and still today, the idea of the federal government handing out land to freedpeople was and is a hare-brained notion – “the Negroes’ forty acre delusion,” to quote one historian. For many African Americans, on the other hand, the granting of forty acres of land was a solemn promise on which the nation has yet to make good. Not surprisingly, the issue looms large in the modern slavery reparations movement. Plaintiffs in several prominent reparations

suits have cited the promise of forty acres as the basis for tort action or for calculating the damages due to African Americans. (The most generous calculation, based on average southern land values in 1865 and six percent interest per annum, puts the current value of forty acres at about \$1.5 million.) The power of the idea is also apparent in the designation of H.R. 40, a bill proposed by Congressman John Conyers (D-Mich.) to convene a national commission to study slavery and its legacy

and to make recommendations to Congress on appropriate remedies. Originally introduced as H.R. 3745, the bill was later renamed H.R. 40 to link it with the historic claim to forty acres.<sup>138</sup>

Today, as at the time, the status of the forty-acre claim rests on the meaning of a series of laws and orders promul-

gated during and immediately after the Civil War. In 1862, shortly after the war began, Congress passed an act permitting the U.S. government to confiscate the property of those who had taken up arms against it. Most of the subsequent controversy over land redistribution centered on such property. What is often overlooked in discussions today is the fact that the bill authorized confiscation for only one generation, in deference to the U.S. Constitution's prohibition of bills of attainder; after the original owner died, title to the land was to revert to his heirs. Similar uncertainties underlay General Sherman's famous Field Order #15 of January 1865, the order from which the phrase "forty acres and a mule" comes. Finding the mobil-

ity of his army hampered by thousands of black refugees, Sherman designated a swath of abandoned rebel lands, stretching south from Charleston and thirty miles inland from the sea, for the exclusive occupation of blacks. The order, which conferred only possessory, or temporary, title, specified that the land be divided into homesteads not exceeding forty acres per family, with use rights to surplus army mules for plowing. Six weeks later, the U.S. Congress gave an apparent statutory basis to Sherman's order when it passed the first Freedmen's Bureau Act. The act empowered the newly-created bureau to resettle former slaves (and white refugees who had remained loyal to the Union) onto homesteads not exceeding forty acres, granting them an exclusive right to occupy the land for three years, in exchange for a nominal rent. At the end of the term, occupants would have an option to purchase the land. But this bill too was ambiguous, specifying that purchasers would receive only "such title . . . as the United States can convey" – an acknowledgement of Congress's own uncertainty of its right to dispose of the land permanently.<sup>139</sup>

Even these tentative steps were too much for Andrew Johnson, who acceded to the presidency after Lincoln's assassination. A former slaveowner, Johnson had accepted emancipation during the Civil War, but he was no friend to racial equality. "This is a country for white men," he once declared, "and as long as I am President, it shall be a government for white men." True to his word, Johnson issued blanket pardons to former rebels and ordered the return of confiscated and abandoned land to its original owners. Black people occupying the land were given the option of signing labor contracts with restored white landlords or leaving. When Congress passed a second Freedmen's Bureau bill in 1866, extending the life of the bureau, Johnson vetoed it, arguing that it conferred on black people rights that the government had never granted to "our own people." Johnson's veto of the bill, as well as of the landmark 1866 Civil Rights bill, contributed to the escalating conflict between the executive and legislative branches of the government, which culminated in the President's impeachment and near removal from office. But on the issue of land

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redistribution, the President carried the day. Congress eventually enacted a second Freedmen's Bureau bill (over Johnson's veto), but the idea of redistributing land to former slaves had disappeared. What little land black southerners ultimately obtained from the federal government came not as reparations for slavery but through the operation of the 1866 Southern Homestead Act, which opened up a portion of public lands for private purchase, with freedmen (and loyal whites) enjoying an exclusive option for the first six months. But few former slaves had money to buy the land, most of which ended up in the hands of private timber companies.<sup>140</sup>

**The islands from Charleston, south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. Johns River, Florida, are reserved and set apart for the settlement of the negroes made free by acts of war and the proclamation of the President of the United States... each family shall have a plot of not more than (40) forty acres of tillable ground.... In order to carry out this system of settlement, a general officer will be detailed as Inspector of Settlements... who will furnish personally to each head of family, subject to the approval of the President of the United States, a possessory title in writing, giving as near as possible a description of boundaries; and who shall adjust all claims or conflicts that may arise under the same, subject to the like approval, treating such titles altogether as possessory...**

Field Order 15, Major General William Tecumseh Sherman, January 16, 1865

Whether the facts of the postwar struggle over land redistribution bolster the claims of advocates of reparations or their opponents is a matter of interpretation. Clearly there was widespread debate about the issue. Radical Republicans like Thaddeus Stevens, Wendell Phillips, and Charles

Sumner warned that, without a thoroughgoing change in southern land titles, the old master class would retain political power and freedpeople would remain in a position of abject dependence. Others warned that redistributing land would itself breed dependency, teaching the freedpeople to rely on federal largesse rather than on their own industry. Still others opposed land redistribution precisely to ensure continued black dependency. If black people were given land, one Pennsylvania senator asked, "Who would black boots and curry the horses, who would do the menial offices of the world?" As for the freedpeople themselves, most assumed that the land they had been allotted under Field Order #15 and later under the first Freedmen's Bureau Act would be theirs in perpetuity, and the federal government's decision to restore it to white rebels was a shattering and bewildering betrayal. One hundred and forty years later, the phrase "forty acres and a mule" still carries the resonance of their feelings.<sup>141</sup>

### **Black Life in the Era of Jim Crow**

The single inescapable fact is that freedpeople did not receive land during Reconstruction. Nor did they receive monetary compensation, access to credit, use rights to surplus government mules, or anything else that might have provided a material foundation for their newly acquired civil and political rights. In the decades that followed, they would be dispossessed of these rights as well. By century's end, black southerners had been effectively disfranchised and consigned to a rigid system of "Jim Crow" segregation, encompassing everything from schools and streetcars to the separate "white" and "colored" Bibles used to swear witnesses in southern courtrooms. The process was abetted by a conservative U.S. Supreme Court, which narrowed Fourteenth Amendment guarantees of due process and equal protection of the laws down to a nullity while giving a constitutional seal of approval to the various devices – poll taxes, literacy tests, grandfather clauses, closed primaries – invented by southern states to nullify blacks' right to vote.

Ultimately it would take nearly a century, until the 1964 Civil Rights Act and 1965 Voting Rights Act, for African Americans to reclaim the rights they had briefly enjoyed during Reconstruction.<sup>142</sup>

*While Radical Republicans promoted land redistribution as the only way to guarantee the economic independence of the newly free, others opposed it precisely to ensure continued black dependency. If black people were given land, one Pennsylvania senator asked, "Who would black boots and curry the horses, who would do the menial offices of the world?"*

black male prisoners were leased out as forced laborers. The prisoners, many of whom had been arrested for vagrancy or other petty crimes, worked not only on roads and other public works but also in private enterprises, including farms, mines, and factories. Numerous historians have documented the substantial profits that flowed to the system's operators, as well as the brutal treatment meted out to leased black convicts, many of whom died before completing their sentences.<sup>143</sup>

White supremacy was reinforced by other, less dramatic forms of social control, ranging from cultural practices such as "coon songs" and black-face minstrelsy to scholarly treatises in emerging disciplines such as anthropology and sociology. Social Darwinism, the signature ideology of the late nineteenth century, gave a seemingly scientific imprimatur to stereotypes of blacks as an "unfit" racial stock, incapable of bearing the responsibilities of citizenship. Drawing on what was later shown to be specious census data, many scholars predicted that African Americans would soon become extinct. Incapable of surviving as free people in a competitive economy, black people in America were destined to die out, just like the allegedly "vanishing Indian." White insurance companies used such

The character of the political and economic regime that emerged during the Jim Crow era was starkly revealed in convict leasing, one of the signatures of the "New South" criminal justice system. Under the system, the roots of which traced back to slavery,

beliefs to justify their refusal to insure African Americans, a practice that continued long after the underlying arguments had been discredited.<sup>144</sup>

### **Lynch Law and the 2005 U.S. Senate Apology**

Black southerners resisted assaults on their freedom. They struggled to acquire land and voted when they could. They armed themselves, organizing militias and Union clubs to repel nightriders. Denied service by white banks, hotels, and insurance companies, they created their own. But resistance carried its own risks. Between 1880 and 1930, at least thirty-five hundred African Americans were lynched in the United States. As Memphis editor Ida B. Wells noted at the time, lynch mobs, while typically justifying their actions in terms of protecting white women from rapacious black men, routinely targeted those who were economically successful or simply defiant. In virtually no cases were perpetrators convicted of or even tried for their crimes. Recognizing the impossibility of securing convictions in southern courts, activists waged a half-century campaign for a federal anti-lynching statute, but their bills invariably failed of passage in the U.S. Senate. It was this history that lay behind the 2005 Senate lynching apology.<sup>145</sup>

### **Education and the Meaning of Black Freedom**

If the struggle over land redistribution was the most important arena for determining the meaning of black freedom after the Civil War, then the struggle over schooling was the second most important. In the nineteenth century, even more than in our own time, education was the cornerstone of America's democratic faith, the foundation of cherished ideas about opportunity, meritocracy, and mobility. It was also an arena in which the legacy of slavery could not have been more blatant: In most southern states, it was a crime to teach a slave to read. As a member of the Virginia state

*In no arena was the legacy of slavery more blatant than in education: In most southern states, it was a crime to teach a slave to read. “We have, as far as possible, closed every avenue by which light can enter,” a Virginia state legislator declared in 1832. “If we could extinguish the capacity to see light, our work would be completed; they would then be on a level with the beasts of the field, and we should be safe.”*

legislature declared in 1832: “We have, as far as possible, closed every avenue by which light can enter. If we could extinguish the capacity to see light, our work would be completed; they would then be on a level with the beasts of the field, and we should be safe.”<sup>146</sup>

With the coming of emancipation, many people, black and white, saw education as the best means to repair the damage of slavery and prepare the newly free for the full enjoyment of their rights as citizens. Even before the war was over, northern teachers and missionaries had begun flocking south in what W.E.B. Du Bois later dubbed “the crusade of the New England schoolm’am.” Hundreds of schools were opened across the region, some by black people themselves, others under the auspices of the Freedmen’s Bureau or reconstructed state governments. Though typically understaffed and underfunded, these schools enabled hundreds of thousands of African Americans, adults as well as children, to learn to read.<sup>147</sup>

Not everyone approved of the idea of educating freedpeople, and black schools were a frequent target of vandals and arsonists. With the onset of Jim Crow, education came in for renewed assault. Though the Fourteenth Amendment prevented southern legislatures from closing black schools outright, such schools were rigidly segregated and starved of resources. In contrast to the idea of redistributing land, the idea that former slaves were entitled to an education equal to that available to whites persisted in Republican Party circles for more than a generation. Three times in the 1880s Republicans in the House of Representatives passed the

Blair Bill, offering states millions of dollars in federal funds for public schools, proportionate to their illiteracy rates – in effect, offering federal resources to underwrite the education of southern freedpeople. Three times Senate Democrats refused to allow the bill to come to a vote.<sup>148</sup>

The dream of an equal education for former slaves was finally extinguished in 1896, with the Supreme Court’s embrace of the doctrine of “separate but equal” in the *Plessy v. Ferguson* case. Of course, separate facilities were never equal. Over the next half century, white students in southern schools routinely received five to ten times more funding per capita than their black peers. Curricula in black schools were canted toward “practical” subjects like agriculture and domestic science, intended to prepare black students for the menial positions awaiting them. In many areas, instruction was limited to the elementary grades, and even that was restricted to a few months per year to ensure that black children’s labor was available during planting and harvesting seasons. At the time of the Supreme Court’s 1954 *Brown v. Board of Education* decision, which finally repudiated the doctrine of “separate but equal,” only about a third of African American children completed high school. In some southern states, the figure was less than ten percent. In sum, a medium that many in the 1860s had seen as the means to repair the legacy of slavery became a means of perpetuating that legacy for another century and beyond.<sup>149</sup>

### **African Americans and Higher Education: The Case of Brown University**

Educational inequality was even greater at the tertiary level. The Reconstruction era saw the creation of the South’s first black colleges, including Howard and Fisk, both founded in 1866. But the total number of students that these colleges could accommodate was initially very small – typically less than a hundred per year. The number of black students in historically white universities was even smaller. One needs look no further than the experience of Brown. Like many of its peer institutions, Brown did not admit black students before the

**The night school has been frequently disturbed. One evening a mob called out of the school house, the teacher, who upon presenting himself was confronted with four revolvers, and menacing expressions of shooting him, if he did not promise to quit the place, and close the school. The freedmen promptly came to his aid and the mob dispersed. About the 18th or 19th of the month... a formidable disturbance took place at the school. The same mob threatened to destroy the school that night, and the freedmen, learning this, assembled... at their place of instruction in a condition of self-defense.**

Captain C.M. Hamilton to the Office of the Adjutant General, 1866

Civil War, at least not knowingly. In 1877, it produced its first two black graduates, George Washington Milford and Inman Page. Over the next seventy years, from the end of Reconstruction through the end of World War II, Brown graduated about sixty more African Americans – a little less than one black student per year. Many of these individuals, it should be noted, went on to careers of great distinction. Inman Page became a distinguished educator in the Oklahoma Territory, where his students included the novelist Ralph Ellison. John Hope, Class of 1894, became president of Atlanta University. (He also became the namesake of historian John Hope Franklin, one of the speakers hosted by the steering committee.) Fritz Pollard, Class of 1919, became the first African American coach in the National Football League. His classmate Rudolph Fisher was one of the great writers of the Harlem Renaissance, though at Brown he studied medicine. J. Saunders Redding, Class of 1928, became a distinguished author and scholar, a pioneer in the study of African American literature. In 1949, he spent a semester as a visiting professor at Brown, becoming the first black member of the University's faculty, before returning to his position

at the historically-black Hampton Institute. At least half a dozen other graduates became university professors. Others became lawyers and doctors. Yet the number of black students admitted to Brown did not increase beyond one or two a year until the 1950s.<sup>150</sup>

### **Reparations Demands in the Age of Jim Crow**

The dream of reparations for slavery did not end with Reconstruction. The late nineteenth century witnessed a variety of proposals. In the 1880s, Bishop Henry McNeil Turner, a black political leader in Georgia during Reconstruction and later the chief apostle of the “back-to-Africa” movement, argued that African Americans were owed “forty billions of dollars for actual services rendered,” a figure based on two million people earning one hundred dollars per year for two hundred years. Turner offered to settle accounts for \$100 million, the amount he calculated was necessary to transport all African Americans to Liberia. Little came of the proposal, though it did receive a back-handed endorsement from two of the U.S. Senate's most notorious white supremacists, Matthew Butler of South Carolina and John Morgan of Alabama, who in 1890 facetiously introduced a bill to transport any African Americans unhappy in the South to the Congo.<sup>151</sup>

The year 1890 also saw the submission to the U.S. Congress of an “Ex-slave Pension and Bounty Bill.” Written by a white southerner concerned with the plight of aged former slaves, the bill never came up for discussion in Congress. But it did become the unlikely foundation of the first popular reparations movement, the National Ex-Slave Mutual Relief Bounty and Pension Association, under the leadership of a black seamstress named Callie House. House's twenty-year campaign to get a slave pension bill onto the floor of Congress proved unavailing, but her efforts were sufficient to antagonize federal officials, who prosecuted her for mail fraud. Though the government produced no evidence of misconduct, she was convicted nonetheless on grounds that her activities were *prima facie* fraudulent, since there was no realistic

*Portrait of Inman Page by Richard Yarde. In 1877, Page and George Washington Milford became the first African Americans to graduate from Brown University.*

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chance that Congress would enact the proposed legislation.<sup>152</sup>

House's efforts also laid the foundations of the first slave reparations lawsuit. In 1916, activists with ties to the ex-slave pension movement filed a suit in federal court, seeking some \$68 million from the U.S. government, a sum based on the revenues the government had collected in taxes and duties on southern cotton in the last years of slavery. Like later reparations suits against the federal government, the case, *Johnson v. McAdoo*, was dismissed on procedural grounds, including the government's sovereign immunity from suit.<sup>153</sup>

By the time *Johnson v. McAdoo* was filed, half a century had passed since emancipation, and a majority of former slaves had passed away. In decades to come, the balance would follow. One of the last recorded reparations claims by living survivors of slavery came in an appeal to President Franklin Roosevelt in 1934, during the depths of the Great Depression. Was there "any way to consider the old slaves," the authors asked, some way of "giving us pensions in payment for our long days of servitude?" The answer, as on previous occasions, was no, but the timing of the question is noteworthy. Just one year later, Roosevelt signed the Social Security Act, creating the nation's first federal system of old-age pensions. The act is rightly remembered as the most important piece of social welfare legislation in American history. Less frequently

noted is the fact that the system was deliberately designed to exclude domestic and agricultural workers, the two largest black employment categories, thus ensuring that neither "the old slaves" nor millions of their descendants were eligible to receive benefits.<sup>154</sup>

### **Race and the Making of the Welfare State**

The exclusion of millions of African Americans from participation in the Social Security system was not mere happenstance. On the contrary, most of the signature programs of the New Deal – Social Security, industrial wage codes, agricultural subsidies – were crafted in ways that directed virtually all of the benefits to whites. Even govern-

mental programs that were ostensibly color-blind often operated in racially discriminatory ways. Eligibility for Aid to Dependent Children, for example, the primary component of what we today call “welfare,” was determined by local administrative bodies, which routinely denied black people benefits to which they were entitled, a pattern that continued into the 1960s. The same would later be true of the G.I. Bill, under the auspices of which millions of returning servicemen were able to attend college. Contrary to modern stereotypes about blacks and welfare, the American welfare state was a crucial element in perpetuating the tradition of white entitlement and black exclusion inherited from slavery and Jim Crow.<sup>155</sup>

**Thus in the underground of our unwritten history, much of that which is ignored defies our inattention by continuing to grow and have consequences. . . . Perhaps if we learned more of what has happened and why it happened, we will learn more of who we really are, and perhaps if we learn more about our unwritten history, we won't be so vulnerable to the capriciousness of events as we are today. . . . Such individuals as Dr. Page . . . worked, it seems to me, to such an end. Ultimately theirs was an act of faith: faith in themselves, faith in the potentialities of their own people, and despite their social status as Negroes, faith in the potentialities of the democratic ideal. Coming so soon after the betrayal of the Reconstruction, theirs was a heroic effort. It is my good fortune that their heroism became my heritage, and thanks to Inman Page and Brown University is it also now a part of the heritage of all Americans who would become conscious of who they are.**

Novelist Ralph Ellison, on his former teacher Inman Page, Brown Class of 1877, in *Going to the Territory*

Nowhere was racial discrimination more blatant or of greater long-term significance than in federal housing policy. Facing a record number of home foreclosures during the Depression, the U.S. government set out to transform the way in which Americans were housed. The cornerstones of this system were the Home Owners Loan Corporation, established in 1933, and the Federal Housing Administration, founded a year later. These two agencies, later joined by the Veterans Administration, essentially offered federal guarantees of private mortgages, greatly reducing the costs, complexity, and risks of the existing system. The policy's object was to make America a nation of homeowners and it succeeded spectacularly. In the space of four decades, some 35 million American families capitalized on these federal programs to add home equity to their estates. One can scarcely overstate the significance of this development. In a nation in which upward of 80 percent of wealth is accumulated through intergenerational transfers, and in which home equity represents the single largest component of such transfers, the H.O.L.C. and F.H.A. dramatically enhanced the life chances of well over one hundred million Americans.<sup>156</sup>

Virtually all of those Americans were white. The F.H.A. and H.O.L.C. circulated color-coded maps to real-estate agents and lenders, with black and mixed-race neighborhoods marked in red. Such neighborhoods were automatically classified as economically unstable, making residents ineligible to receive federal mortgage guarantees to purchase or repair homes. At the same time, the F.H.A. refused to underwrite mortgages to “incompatible groups” – that is, to African Americans trying to move into white neighborhoods – on the grounds that mixing people of different “social and racial classes” led to “instability and a reduction in values.” The explicitly racial language was later stricken from F.H.A. manuals, but the policy persisted. A study by the National Association for the Advancement of Colored People found that black people had been excluded from access to 98 percent of all F.H.A.-guaranteed mortgages between 1948 and 1961, precisely the period in which the American suburban system was created. Only

with the 1968 Fair Housing Act, enacted as a tribute to the slain Dr. Martin Luther King Jr., did racial discrimination in mortgage provision become illegal. By that time the racial character of America's cities and suburbs – and with it the racial character of the nation's public school system – had become firmly entrenched.<sup>157</sup>

*Was there “any way to consider the old slaves,” the authors of the appeal asked the President, some way of “giving us pensions in payment for our long days of servitude?”*

*The answer, as on previous occasions, was no, but the timing is noteworthy. One year later, Roosevelt signed legislation creating the Social Security system – a system from which agricultural and domestic workers, the two largest black employment categories, were excluded.*

### **Civil Rights, Black Power, and the Revival of the Reparations Question**

The 1968 Fair Housing Act, coming on the heels of the 1964 Civil Rights Act and 1965 Voting Rights Act, represented the last great legislative victory of the Civil Rights era. In law, if not yet in practice, African Americans had finally achieved the full American citizenship promised a century before. Yet 1968 was also a year of bitter disillusionment, marked by the murder of Dr. King, the eruption of ghetto revolts in more than a hundred American cities, and a growing awareness of the profound economic disparities that continued to divide black and white Americans, notwithstanding the recent legislative gains. As King himself famously put it, “What good is it to sit at a lunch counter if you can't afford a hamburger?” The modern slave reparations movement was a product of this historical moment.

The slave reparations movement that emerged in the late 1960s was distinguished from its prede-

cessors in at least two important respects. Most obviously, it was a movement of descendants of slaves rather than of the formerly enslaved themselves, all but a handful of whom had died. It was also a movement profoundly shaped by the contemporary Black Power movement, with its emphasis on black autonomy and economic empowerment and its deep skepticism about the value of integration. The most visible of the new reparations organizations was the Republic of New Africa, a black nationalist organization founded in 1968 in Detroit, site of the bloodiest of the era's ghetto revolts. Founded by two brothers, Gaida and Imari Obadele (nee Milton and Richard Henry), the Republic of New Africa demanded \$400 billion in “slavery damages” from the U.S. government, along with the cession of five southern states – Louisiana, Mississippi, Alabama, Georgia, and South Carolina – as the territorial basis of a separate black nation. (In the 1990s, Imari Obadele would reemerge as the president and founder of N'COBRA, the National Committee of Blacks for Reparations in America.)<sup>158</sup>

### **The Black Manifesto**

Detroit was also the birthplace of the “Black Manifesto.” Drafted at the National Black Economic Development Conference, which met in the city in 1969, the manifesto was announced to the world a short time later when a group of civil rights movement veterans, led by James Forman, disrupted services at New York's Riverside Church to present its demands. Addressing “the White Christian Churches and the Jewish Synagogues in the United States of America and All Other Racist Institutions,” the manifesto demanded \$500 million “as the beginning of the reparations due us as people who have been exploited and degraded, brutalized, killed, and persecuted.” It went on to specify the uses to which the fund would be put, including the establishment of a southern land bank, the creation of black publishing houses and television networks, a strike fund for black workers, and the founding of a black university. While authors of the Black Manifesto did not envision a separate black nation, as leaders of the Republic of New Africa did, their

proposals were clearly intended to enhance black autonomy and self-determination.<sup>159</sup>

The Black Manifesto provoked a brief flurry of media comment, much of it condemning the disruptive tactics employed by Forman and his comrades. The substance of the appeal was largely ignored, or at best dismissed as hopelessly quixotic. “[T]here is neither wealth nor wisdom enough in the world to compensate in money for all the wrongs in history,” the *New York Times* editorialized. The manifesto generated more sustained discussion in academic circles, including among legal scholars. Probably the most authoritative examination of the issue was *The Case for Black Reparations* by Boris Bittker, the Sterling Professor of Law at Yale. By his own account, Bittker began his research as a skeptic, and he emerged convinced that the legal obstacles to slavery reparations claims were indeed all but insurmountable, particularly when cast in terms of individual payments. But he also concluded that a compelling case for collective reparations could be made for the injuries of Jim Crow, especially for the long denial of equal education. To “concentrate on slavery,” he wrote, “is to understate the case for compensation, so much so that one might almost suspect that the distant past is serving to suppress the ugly facts of the recent past and of contemporary life.” For better or worse, few reparations advocates have attended to Bittker’s observation.<sup>160</sup>

The slavery reparations issue continued to bubble through the 1970s and ’80s, chiefly in black nationalist circles. In the late 1980s and early 1990s, the issue burst back into national prominence, attracting unprecedented interest and support. To some extent, this revival was a response to the proliferation of retrospective justice movements and claims in the United States and around the world. But it also reflected the specific circumstances of black America, including widespread anger and frustration at the conservative turn in American politics. With ebbing support for civil rights legislation, federal courts increasingly unreceptive to racial discrimination claims, and affirmative action under

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political and legal assault, some African Americans concluded that reparations were the only means left to address the persistent racial inequalities plaguing American society. “Affirmative action for Black Americans as a form of remediation for perpetuation of past injustice is almost dead,” wrote legal scholar Robert Westley in an influential article. The time had come to “revitalize the discussion of reparations.”<sup>161</sup>

### **The 1988 Civil Liberties Act**

African American interest in the reparations issue also received an enormous boost from the 1988 Civil Liberties Act, which granted a formal apology and monetary reparations of \$20,000 to Japanese Americans interned during World War II. Given the salience of the Japanese-American case in the reparations debate, it is worth briefly examining the act. Aside from a 1948 law providing token compensation to some internees for lost property, the internment was little discussed in the decades after the war. Former internees themselves often buried the experience, regarding it as a source of shame and embarrassment. The daughter of Fred Korematsu, an American citizen of Japanese descent who had taken a case to the Supreme Court in 1944 in a vain effort to stop the internment, learned about her father’s experience only after stumbling



Final pages of the Sally's account book.

1765		N <sup>o</sup>
Aug <sup>t</sup>	1 gale Slave Dyed	21
21	1 boye Slave Dyed	22
25	1 boye Slave Dyed	23
27	1 Woman & 1 boye Dyed	24
28	Slaves kept on us was obliged fire on them & destroyed 8 and several more wounded badly 1 thyr & ones thyr broke	25 26 27 28 29 30 31
30	1 boye & 1 gale Slave Dyed	32
31	1 Woman Slave Dyed	33
Sept	1 Woman & 1 gale Slaves Dyed	34
1	1 Woman Slaves Dyed	35
2	1 boye Slave Dyed	36
3	1 boye Slave Dyed	37
4	1 boye Slave Dyed	38
6	1 man Slave Dyed	39
7	3 boye & 1 gale Dyed	40
8	2 Women and 2 boye Dyed	41
9	1 Woman & 1 gale Slave Dyed	42
11	1 boye Slave Dyed	43
12	1 boye Slave Dyed	44
14	1 gale Slave Dyed	45
15	1 gale Slave Dyed	46
16	1 Woman Slave Dyed	47
19	1 man Slave Dyed of his wound on the ribs when Slaves kept	48
20	1 boye Slave Dyed	49
22	1 woman Slave Dyed	50
23	2 Women & 1 gale Slaves Dyed	51
25	1 man & 1 woman Slaves Dyed	52
26	2 men & 1 gale Slaves Dyed	53

1765		N <sup>o</sup>
Sept	2 men & 1 woman Slaves Dyed	54
27	1 woman & 1 gale Slaves Dyed	55
29	1 woman & 1 gale Slaves Dyed	56
30	2 woman & 1 boy Slave Dyed	57
Oct <sup>r</sup>	1 3 woman Slaves Dyed	58
2	3 men Slaves and 2 woman Slaves Dyed	59
3	1 gale Slave Dyed	60
5	1 man Slave Dyed	61
6	1 man & 1 woman Slaves Dyed	62
8	1 man Slave Dyed	63
11	3 woman & 1 man Slave Dyed	64
14	1 boy Slave Dyed and 1 man Slave Dyed of his wound in the thy rib when Slaves kept	65
15	1 woman Slave Dyed	66
17	1 woman Slave Dyed	67
20	1 man Slave Dyed	68
23	1 man and 1 woman Slaves Dyed	69
25	1 woman Slave Dyed	70
27	1 boy Slave Dyed	71
30	1 woman Slave Dyed	72
Nov <sup>r</sup>	3 1 man boy Dyed	73
5	1 woman Slave Dyed	74
10	1 young man Slave Dyed	75
11	1 man boy Slave Dyed	76
12	1 woman Slave Dyed	77
15	1 man Slave Dyed	78
Dec <sup>r</sup>	20 1 man Slave Dyed	79

across a reference to the case in her high school history textbook. Her father had never mentioned it.<sup>162</sup>

After decades of silence, a broad redress movement emerged in the 1970s and '80s. While surviving internees were well represented in the movement, much of the impetus came from younger Japanese Americans seeking acknowledgement of the injuries endured by their aging parents and grandparents. The movement drew strength from new research on the internment by scholars working in the emerging field of Asian American studies. Its influence was further enhanced by the presence in the U.S. Senate and House of Representatives of individuals who had been directly touched by wartime events, including two who were interned and two who fought in the U.S. Army as members of a highly decorated Japanese-American regiment. The movement achieved an early victory in 1976, when President Gerald Ford formally apologized for the government's action, but organizers

pressed for more. While some pursued reparations through class-action litigation (the case, *Hobri v. United States*, was eventually dismissed on statute-of-limitations and other procedural grounds), others followed the legislative route, securing the passage of a law appointing a national commission to investigate the history of the episode and to recommend appropriate remedies. The outcome of the process was the Civil Liberties Act, signed into law by President Ronald Reagan.<sup>163</sup>

### The Japanese-American Case as a Precedent for Slavery Reparations

Whether the Civil Liberties Act represents a precedent for slavery reparations is questionable. Most obviously, the act paid reparations only to surviving internees, not to their descendants. The authors of the Civil Liberties Act were also careful to present the internment not as an injury to a particular group but as a constitutional violation that had injured the entire nation. This strategy was apparent not only in the act's title, which made no mention of Japanese Americans, but also in the opening sec-

tion, which described the bill as an effort to “discourage the occurrence of similar injustices and violations of civil liberties in the future; and make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.” Finally, the bill included a rider, attached by Senator Jesse Helms, explicitly “to preclude . . . this legislation from being used as a precedent in the courts or elsewhere to give precedent or standing to any future claims on the part of . . . any other citizen or group claiming to have been dealt an injustice by the American Government at some time in the past.” (Helms proposed another amendment, not adopted by his colleagues, withholding all payments until the government of Japan had compensated families of Americans killed at Pearl Harbor, a proposal that precisely recapitulated the racist logic of the original internment.)<sup>164</sup>

*Senator Helms proposed another amendment to the Civil Liberties Act, withholding all reparations payments to former internees until the government of Japan had compensated families of Americans killed at Pearl Harbor. The proposal, which precisely recapitulated the racist logic of the original internment, was not adopted.*

Whatever the relevance of the Civil Liberties Act to slavery redress, it was certainly embraced as a precedent by reparations advocates. If nothing else, the law showed that it was possible for the American nation to confront an historical injustice in a serious way, to apologize publicly for it, and to offer material amends. The act unleashed a torrent of articles in magazines and law reviews, reexamining slavery reparations claims in the context of the Japanese-American case. Its influence was also manifest in H.R. 40, introduced by Congressman John Conyers in April 1989. Conyers’s bill called for the appointment of a nonpartisan commission “to examine the institution of slavery, subsequent *de jure* and *de facto* racial and economic discrimination against African Americans, and the impact of

those forces on living African Americans,” and to recommend remedies to Congress – a formulation almost identical to the language of the bill that established the internment commission. (Although Conyers has regularly reintroduced the bill, he has yet to muster the votes to move it from committee onto the floor of the House.)<sup>165</sup>

### **Seeking Reparations Through Litigation**

While the Civil Liberties Act and H.R. 40 exemplify the pursuit of reparations through the legislature, others pursued reparations through courts. *Berry v. United States* and *Cato v. United States*, filed in California in 1994 and 1995, respectively, both sought reparations for slavery from the federal government. The two cases based their claims on different legal theories. Berry referenced the promise of forty acres of land during Reconstruction, and sought forty acres in compensatory damages. (The acreage specified in the suit included most of downtown San Francisco.) Cato sought monetary damages for the crime of slavery itself, including “kidnapping of ancestors from Africa” and “forced ancestral indoctrination into a foreign society.” In the end, neither theory was tested. Both cases were dismissed on procedural grounds, including the sovereign immunity of the federal government from lawsuits, the failure of plaintiffs to establish legally actionable harms, and the political questions doctrine.<sup>166</sup>

A second batch of reparations cases was filed in the early 2000s, targeting not the federal government but corporations alleged to have profited from slavery, the slave trade, and slave-related industries. The cases were clearly inspired by recent settlements in class-action suits brought by Holocaust victims and their descendants against Swiss banks and German corporations complicit in Nazi forced-labor practices; indeed, some of the lawyers who filed slavery cases had previously worked on Holocaust claims. In March 2002, Deadria Farmer-Paellman, a longtime reparations activist, and Edwin Fagan, one of the lead attorneys in the German forced-labor litigation, filed

suit in federal court in Brooklyn against Fleet-Boston Bank, railroad giant CSX, Aetna Insurance, and up to one thousand “Corporate [John] Does” to be named later. Though the suit specified no damages, Farmer-Paellman and Fagan publicly mentioned the figure of \$1.4 trillion, their calculation of the current value of the forty-acre plots denied to freedpeople after the Civil War.<sup>167</sup>

Several other suits followed. Consolidated into a single case, “in re: African American Slave Descendants Litigation,” the cases were argued in the Northern District of Illinois in 2004. The result was a thoroughgoing defeat for reparations advocates. The plaintiffs, the presiding judge ruled, had failed to clear the procedural hurdles necessary for the court even to consider the merits of the case. The judge identified three main deficiencies in the filing, including lack of standing (the plaintiffs’ failure to establish a direct line of descent between themselves and a specific injured party), the expiration of statutes of limitations in all jurisdictions, and the political question doctrine. The plaintiffs were given leave to file an amended complaint, but it too was dismissed on the same grounds. In 2005, the case was resubmitted with additional arguments and materials (including DNA evidence establishing a genetic link between African Americans today and Africans transported to the Americas on slave ships) but this case too was dismissed. Although an appeal of this last dismissal is pending, the idea of securing reparations for slavery through litigation against private companies appears to have come to a dead end, at least for the time being.<sup>168</sup>

### **Municipal Disclosure Ordinances**

Even as these suits wound their way through the federal courts, a new front was being opened. In October 2002, the Board of Alderman of the city of Chicago unanimously adopted the nation’s first “Slave-Era Disclosure Ordinance,” requiring companies with city contracts to examine their historical records, including records of predecessor compa-

nies, and to disclose profits derived from slavery. Under terms of the ordinance, companies found to have ties to slavery suffer no penalties; sanctions are reserved for companies that fail to disclose such ties. Los Angeles adopted a similar ordinance in May 2003. Detroit followed a month later. With the failure of litigation, the reparations movement appears to have redirected its energies toward this front, and there are now more than a dozen major cities with ordinances in place or in prospect.<sup>169</sup>

Thus far, the impact of the new disclosure ordinances has been borne by large American banks, which tend to have many predecessor companies, as well as many municipal contracts. In December 2004, J.P. Morgan Chase, the nation’s second-largest bank, submitted an amended disclosure statement to the city of Chicago, revealing that two of its predecessor banks in Louisiana had accepted some thirteen thousand enslaved African Americans as collateral for loans. Through defaults, the banks eventually owned – and, in turn, sold – about ten percent of these people. The disclosure was accompanied by a public letter of apology from the bank’s president, as well as the announcement of a \$5-million scholarship fund for African American students from Louisiana. Wachovia, the nation’s fourth-largest bank, made a similar disclosure in June 2005. Thus far only one institution appears to have been disqualified from a city contract. In October 2005, Lehman Brothers of New York was removed as co-underwriter of a \$1.5-billion bond issue for Chicago’s O’Hare Airport after failing to submit an amended disclosure statement, an action that reportedly cost the firm \$500,000.<sup>170</sup>

### **Disclosures by Private Institutions**

Recent years have also seen a series of voluntary disclosures by private institutions. Churches have played the leading role, with denominations ranging from the Southern Baptist Convention to the Church of England adopting resolutions acknowledging and expressing contrition for their historical ties to slavery and the slave trade. The most recent institution to act is the Episcopal Church, which adopted a resolution in June 2006 expressing “profound regret” for its complicity in slavery, as well

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as its for its long silence about racial discrimination in the era of Jim Crow. In addition to the apology, the church announced a three-year self-study of its relationship to slavery and the slave trade, to be accompanied by a sustained process of dialogue and reflection on possible remedies. The expressed goal of the exercise is to try to “repair the breach” that slavery carved in the life of the church and the nation.<sup>171</sup>

If the Episcopal Church's efforts reflect its identity as a religious institution, the action of the *Hartford Courant*, the nation's oldest continuously-published newspaper, bespeaks its institutional identity. In searching the paper's archives for background on reparations claims against Aetna, a local insurance company, *Courant* reporters uncovered an entire forgotten history of slavery and slave trading in Connecticut. This history embraced the newspaper itself, which routinely ran paid advertisements for runaway slaves and upcoming slave auctions. On July 4, 2000, the paper published a front-page editorial, “A Courant Complicity, an Old Wrong,” apologizing for “any involvement by our predecessors at the *Courant* in the terrible practice of buying and selling human beings.” The

paper went on to produce a special edition focusing on Connecticut and slavery, entitled “Complicity.” The edition, later published in expanded form as a book, has been distributed to schools across the state.<sup>172</sup>

Universities have also been important sites of historical discovery and dialogue. While the venture at Brown has generated the most national attention, other institutions have also confronted their historical ties to slavery. In 2004, the Faculty Senate of the University of Alabama adopted a resolution apologizing for the faculty's complicity in slavery in the years before the Civil War. The apology focused on previous faculty members' role in whipping slaves on campus, a responsibility formally assigned to the faculty by the Board of Trustees in the 1840s to forestall students whipping their personal slaves excessively. In 2005, the University of North Carolina unveiled a public memorial, *Unsung Founders*, honoring the people of color, enslaved and free, who had helped to build the university. At the same time, Emory University announced a “Transforming Community Project,” a five-year program of activities and workshops designed to facilitate dialogue on the university's historical relationship to slavery and Jim Crow, as well as on the current politics of race on the campus.<sup>173</sup>

### **Racial Inequality in the Twenty-First Century**

Time will tell whether recent initiatives by churches, newspapers, and universities represent isolated gestures or the beginning of a broad national discussion about slavery and its legacies. What is certain is that there is much still to discuss. While the nature and sources of racial inequality today are fiercely debated, there is no question that we live in a society characterized by dramatic racial disparities. According to the 2000 U.S. Census, more than one in five African Americans – and nearly one in three African American children – lives below the federal poverty line. Recorded in the midst of a booming economy, these figures are the lowest in U.S. history, yet they are still more than three times the comparable figures for non-Hispanic whites. Median white family income is about 50

percent higher than the median black income; the gulf in wealth, a measure of assets accumulated over generations, is vastly greater. Average black life expectancy is six years less than for white Americans, while the black infant mortality rate is twice as high. African Americans are far more likely than their white peers to be ill-housed and ill-educated, and to lack essential medical care. Racial disparities are perhaps most dramatic in rates of incarceration, with African Americans, and black males in particular, about seven times more likely than whites (and three times more likely than Latinos) to be lodged in state or federal prison.<sup>174</sup>

The persistence of racial inequality in America today was thrown into sharp relief by Hurricane Katrina, one of the signal events of the steering committee's three-year tenure. Had the committee wished to contrive an event to illustrate the continuing relevance of our nation's racial history it could scarcely have done better than Katrina, which devastated the Gulf Coast in September 2005. As President George W. Bush noted in a national address from the devastated city of New Orleans, the hurricane and ensuing flood exposed the reality of "deep, persistent poverty" in the United States, poverty with "roots in a history of racial discrimination, which cut off generations from the opportunity of America." Equally important, Katrina exposed a vast gulf in the way in which different Americans see their worlds. Whatever one thinks of

the merits of the various arguments, the angry allegations hurled in the aftermath of the storm – accusations of government indifference and betrayal, the attempt to shift responsibility for the suffering onto victims themselves, charges and counter-charges of misrepresentation and media bias – clearly bespoke a nation that remains deeply conflicted about the meaning of its past.

The problems exposed by Katrina take us back once more to the challenge of retrospective justice. How does a society "repair" such deeply-rooted economic, political, and psychological divisions? Is the discourse of reparations, with its emphasis on "healing injuries" and remedying past injustice, a useful medium for thinking about our responsibilities in the present? Are exercises in retrospective justice inherently divisive and backward looking, as some critics have alleged, or can they provide a way to nurture common citizenship and awaken new visions of the future? How might such programs work in practice? These are just some of the questions that might be taken up in a continuing national dialogue about slavery and justice. It is our hope that this report, in providing information about the history of our University and our nation, as well as about the efforts of other institutions and societies to confront legacies of historical injustice, may enable Americans of all persuasions to discuss such questions more openly and thoughtfully.

# *Slavery and Justice: Concluding Thoughts*

**W**HEN SHE APPOINTED the University Steering Committee on Slavery and Justice, President Simmons noted that we would confront questions “about which men and women of good will may ultimately disagree,” including those posed by the question of reparations for slavery. She did not ask the steering committee to try to resolve the debate, and she made clear that the committee would not determine whether or how Brown might pay monetary reparations. Our task, rather, was to provide “factual information and critical perspectives” to enable our students and the nation to discuss the historical, legal, political, and moral dimensions of the controversy in reasoned and intellectually rigorous ways. Brown’s own history, the president observed, gave the University a special opportunity and obligation to provide intellectual leadership and foster civil discourse on this important national issue.

In the preceding pages, we have tried to fulfill this charge. Yet after years of reading and organizing public programs, we have drawn certain conclusions, which we offer as a final stimulus for reflection and debate.

American slavery and the transatlantic trade that fed it were crimes against humanity. Indeed, they were the very definition of such crimes – offenses that, in their denial of the shared humanity of certain categories of people, diminished the humanity of all people, whether victims, perpetrators, or bystanders. The familiar extenuations – that slavery and slave trading were once legal; that they ended a long time ago; that direct victims and perpetrators are long since dead; that many, even most, Americans are descendants of immigrants who came to the United States after 1865 – are all

true, but they neither expunge the crimes nor erase their enduring legacies.

In labeling slavery and the slave trade as crimes against humanity, we are not merely indulging hindsight or projecting our present values back onto the past. While the international legal regime for responding to crimes against humanity was codified only in the twentieth century, the concepts that undergird it, the basic intuitions about the shared nature and irreducible moral worth of all human beings, come to us directly from the eighteenth century. Indeed, they emerged in large measure out of the struggles over slavery and the slave trade recounted here. As we have seen, Brown was an important terrain in these struggles. In the late eighteenth century, the college’s governing Corporation and its namesake family were rent by the campaign to end the transatlantic slave trade, with some members bringing prosecutions against other members for illegal slave trading. The battle was rejoined a generation later, with students and faculty debating the merits of abolition even as the burgeoning Rhode Island textile industry tied the fortunes of the University and the state more closely to southern slavery. Attending to this history not only challenges prevailing understandings of the “free North” and “slave South,” but also casts the work of the steering committee in a different light. In exploring Brown’s historical relationship to slavery and the slave trade, and in debating our own responsibilities in light of it, we are participating in a conversation that began on this campus more than two centuries ago.

Like other great historical crimes, slavery had profound consequences. The most fundamental was racism – the enduring stigma borne by darker-skinned people. But the institution left other legacies as well, including vast gulfs of wealth and poverty, privilege and deprivation. Americans who lived through the process of emancipation, first in northern states like Rhode Island and later in the South, recognized at least some of slavery’s consequences, and they proposed a variety of programs to redress them, from land redistribution to publicly-funded education. In the end, however, virtually nothing was done, in either the North or the South, to compensate the formerly enslaved for their years of unpaid toil or to welcome them into the ranks of free people. On the contrary, the post-emancipation years, North and South, saw a hardening of racist attitudes, accompanied by the erection of new barriers to ensure African Americans’ continued subjugation.

The system of racial discrimination that prevailed after slavery was most blatant in the American South, where 245 years of slavery were succeeded by nearly a century of state-sanctioned segregation, disfranchisement, and violence. But the system was national in scope and underwritten by a host of public and private institutions, from federal agencies like the Social Security Administration and the Home Owners Loan Corporation, which denied black Americans access to programs and assets available to whites, to elite universities like Brown, which between the 1870s and 1950s enrolled fewer than one African American student per year. With the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968, the centuries of formal racial discrimination finally came to an end, and African Americans assumed, in law if not always in practice, their full rights and privileges as American citizens. In the years since, the United States has seen evidence of substantial progress, including the emergence of a sizeable black middle class and a dramatic increase in the number of African Americans studying in colleges and universities.

Yet the nation also continues to be marked by profound racial disparities in most measures of human welfare, including education, employment, wealth, rates of incarceration, access to housing and health care, infant mortality, and life expectancy.

But material inequalities are only part of the legacy that slavery and the subsequent regime of Jim Crow bequeathed to the nation. One of the things that steering committee members learned in our exploration of other cases of historical injustice around the world is that crimes against humanity weigh on societies in many different ways. In the worst circumstances, they leave legacies of rage and contempt that, left untended, virtually ensure the eruption of new atrocities in the future. In less dramatic cases, they leave a residue of ill will, festering feelings of resentment, distrust, and defensiveness that can poison politics and impair a society’s ability to face the challenges of the present and future with civility and common purpose. Surveying the state of racial politics in America today, the rancor and raw emotions that discussions of racial issues seem instantly to arouse, it is hard to resist the conclusion that the United States is such a society.

The challenge, of course, is not only to understand the sources of our current predicament but also to devise ways to make the situation better. This is the task of retrospective justice. As we have seen, the last sixty years – and the last twenty years, in particular – have witnessed the emergence of an international consensus on the importance of confronting traumatic histories, as well as the creation of a variety of modalities and mechanisms for doing so. These approaches include not only the payment of monetary reparations (the focus of the current slavery reparations debate in the United States), but also international tribunals, formal apologies, truth commissions, the creation of public memorials and days of remembrance, educational initiatives, and a wide variety of other non-monetary reparations programs. In the preceding pages, we have tried to illuminate the possibilities and potential pitfalls of these different approaches, as well as some of the specific circumstances in which they have been or might be used. Clearly there is no

magical formula for righting historical wrongs. Retrospective justice is a messy and imperfect business, and societies and institutions that undertake it should do so with humility and a clear-eyed recognition of the inadequacy of any reparative program to restore what was taken away. Yet looking at the experience of other societies that have confronted (or failed to confront) legacies of historical injustice – at the contrasting experiences of West Germany, East Germany, and Japan following World War II; at the operation of truth commissions in South Africa and elsewhere; at the bitter controversies spawned by the Turkish government’s denial of the Armenian genocide or by the Australian government’s refusal to apologize to Aboriginal children abducted from their families as part of a state-sponsored forced assimilation policy – there seems good reason to believe that communities that face their histories squarely emerge stronger than those that choose the path of denial and evasion.

In the course of its research, the steering committee was struck not only by the sheer variety of reparative justice initiatives around the world but also by the ambivalent response of many Americans to these efforts. On one hand, Americans have played a leading role in creating the international humanitarian regime. Judges and prosecutors from the United States laid the foundations of international humanitarian law at Nuremberg, and it was American military officials who drafted the first German restitution and reparations policies for victims of Nazi atrocities. U.S. courts and legislatures have become the premier venues for reparations claims of various sorts, and many American politi-

cal leaders have been outspoken in demanding that leaders of other nations (particularly the current government of Japan) acknowledge and make amends for the misdeeds of their predecessors. On the other hand, many Americans remain distinctly uneasy about broaching aspects of their own history, particularly in regard to slavery. While recent years have seen a proliferation of national and institutional apologies for various offenses, a proposed apology for slavery – a one-sentence Congressional resolution introduced in 1997 apologizing to “African Americans whose ancestors suffered as slaves under the Constitution and the laws of the United States until 1865” – died before it could even come up for discussion on the floor of the House of Representatives. It is difficult to say precisely where this reticence about slavery comes from, but it seems to us to be a matter worthy of further reflection.

All of which leads to one final conclusion. If this nation is ever to have a serious dialogue about slavery, Jim Crow, and the bitter legacies they have bequeathed to us, then universities must provide the leadership. For all their manifold flaws and failings, universities possess unique concentrations of knowledge and skills. They are grounded in values of truth seeking and the unfettered exchange of ideas. They are at least relatively insulated from political pressure. Perhaps most important, they are institutions that value historical continuity, that recognize and cherish the bonds that link the present to the past and the future. The fact that so many of our nation’s elite institutions have histories that are entangled with the history of slavery only enhances the opportunity and the obligation.



# Recommendations

W

E CANNOT CHANGE THE PAST. But an institution can hold itself accountable for the past, accepting its burdens and responsibilities along with its benefits and privileges. This principle applies particularly to universities, which profess values of historical continuity, truth seeking, and service. In the present instance, this means acknowledging and taking responsibility for Brown's part in grievous crimes.

In the course of its research, the steering committee examined dozens of examples of retrospective justice initiatives from around the world. While each case is unique, the most successful generally combine three elements: formal acknowledgment of an offense; a commitment to truth telling, to ensure that the relevant facts are uncovered, discussed, and properly memorialized; and the making of some form of amends in the present to give material substance to expressions of regret and responsibility. The University's response should partake of all three of these elements. Equally important, it should reflect Brown's specific nature as an educational institution. What universities do best is learning and teaching, and these are the areas in which Brown can most appropriately and effectively make amends.

## Acknowledgment

While members of the steering committee have different opinions about the propriety and value of an institutional apology, we believe that it is incumbent on the University, at a minimum, to acknowledge formally and publicly the participation of many of Brown's founders and benefactors in the institution of slavery and the transatlantic slave trade, as well as the benefits that the University derived from them.

## Tell the truth in all its complexity

Every confrontation with historical injustice begins with establishing and upholding the truth, against the inevitable tendencies to deny, extenuate, and forget. The appointment of the steering committee and the various public programs it sponsored have already done a great deal to create awareness of a history that had been largely erased from the collective memory of our University and state. Yet there is more to be done. We recommend that the University

- release this report publicly, in both print and electronic versions, and circulate it widely among students, academic and non-academic staff, and alumni, as well as among other interested parties in Rhode Island and throughout the United States;
- sponsor public forums, on campus and off, to allow anyone with an interest in the steering committee's work to respond to, reflect upon, and criticize the report;
- include discussion of the University's historical relationship to slavery as a normal part of freshmen orientation;

- commission a new history of the University to replace the currently available text, which makes virtually no reference to slavery or the slave trade, or to the role that they played in Brown's early history;

- lend its support and assistance to other institutions that might be considering undertaking similar investigations of their own histories.

### **Memorialization**

Few if any institutions in our society are as quick to erect memorials as universities. The Brown campus contains literally hundreds of statues, stones, portraits, plaques, and other markers, each placed by one generation to inform and edify generations to come. Yet there are no memorials acknowledging the University's entanglement with the transatlantic slave trade. To the best of our knowledge, there is only one such marker in the vicinity of the campus, a small brass plaque near the entrance of the John Brown House, which mentions slave trading in a list of its one-time owner's activities. Installed by the Rhode Island Black Heritage Society and the Rhode Island Historical Society after a long and public debate, the plaque was almost immediately defaced by vandals.

As this example suggests – and as programs sponsored by the steering committee on the politics of slavery and Holocaust memorials confirmed – memorializing traumatic histories can be difficult and awkward. The challenge, easier to articulate than to accomplish, is to create a living site of memory, inviting reflection and fresh discovery without provoking paralysis or shame. We believe that Brown can and should answer this challenge. We recommend that the University

- undertake to create a slave trade memorial to recognize its relationship to the transatlantic trade and the importance of this traffic in the history of Rhode Island;

- sponsor a public competition to design such a memorial, keeping in mind that debate and controversy over an appropriate design are integral parts of the process of coming to terms with the past;

- designate an annual day of remembrance on the academic calendar, to be marked by a visit to the memorial by University representatives, an endowed lecture, and other activities designed to encourage continued reflection on this aspect of our history.

### **Create a center for continuing research on slavery and justice**

Universities express their priorities first and foremost in their selection of fields of study. We believe that Brown, by virtue of its history, has a special opportunity and obligation to foster research and teaching on the issues broached in this report, including slavery and other forms of historic and contemporary injustice, movements to promote human rights, and struggles over the meaning of individual and institutional responsibility. We recommend the establishment of a scholarly center dedicated to these questions. The center should include

- a full-time director;
- a newly-created endowed professorship, lodged jointly in the center and an appropriate academic department, to be held by a distinguished scholar whose research engages broad questions of justice and injustice;
- fellowships for postgraduate and senior scholars;
- abundant research opportunities for Brown students, both undergraduates and graduates;
- internships and service-learning opportunities for undergraduates interested in working with anti-slavery organizations and other institutions dedicated to the promotion of human rights;
- public programming aimed at both the University and the wider community;
- a significant educational outreach component, including workshops and curriculum development, to help teachers integrate topics related to slavery and justice into their classrooms;
- administrative and staff support, to ensure sustainability and effective collaboration with existing departments and centers at Brown, including the Swearer Center for Public Service, the

Watson Institute for International Studies, the Cogut Humanities Center, the John Nicholas Brown Center for the Public Humanities, and the Center for the Study of Race and Ethnicity.

### **Maintain high ethical standards in regard to investments and gifts**

With institutions as with individuals, taking responsibility for an offense entails more than expressing remorse for past conduct; it also requires a commitment to doing better in the future. As we have seen, Brown's early endowment benefited from contributions made by slaveowners and slave traders. Although slavery is no longer legal, it persists in many parts of the world, alongside a variety of other forms of gross injustice. Given its history, the University has a special obligation to ensure that it does not profit from such practices.

Brown has already taken important steps in this regard. The University recently introduced a new procedure for the ethical review of major gifts that is, at least on paper, one of the most rigorous in the nation. It has also expanded the purview (though not the resources) of the Advisory Committee on Corporate Responsibility in Investment, which makes recommendations to the Brown Corporation on proxy resolutions, as well as on ethical concerns raised by members of the Brown community. The value of this process can be seen in the University's recent decision to divest itself of all direct holdings in companies doing business in Darfur, the scene of an ongoing genocide. Yet there is also some cause for concern. Like most of its peer institutions, Brown in recent years has invested an increasing portion of its endowment in "hedge" funds, commingled vehicles that afford the University no influence over the companies in which it is invested, and provide no clear knowledge of what investments it holds at any given moment. While the committee has no reason to believe that Brown is involved in any unethical practices, we find this lack of transparency troubling.

Recognizing the importance of growing the endowment, yet mindful also of Brown's distinctive history, we recommend that the University

- uphold a strict procedure for the ethical review of gifts;
- strengthen its commitment to socially-responsible investment by expanding its holdings in socially-responsible funds and offering facilities to donors who wish to ensure that their gifts are invested in such funds;
- provide the Advisory Committee on Corporate Responsibility in Investment with the logistical and staff support that it needs to do its work effectively;
- review its investment strategies with a goal of increasing transparency and ensuring accountability.

### **Expand opportunities at Brown for those disadvantaged by the legacies of slavery and the slave trade**

Over the last few years, hundreds of people have written to the steering committee offering suggestions about what Brown might do to make amends for its history. The single most common suggestion was creating special scholarships for African American students. Given Brown's failure to admit more than a handful of black students during its first two hundred years, it is a logical suggestion, and one whose spirit we endorse. But it is not a recommendation that we can make.

Brown is a need-blind / need-based institution. This means that the University, like most of its peer schools, admits students without regard to their ability to pay, committing itself to providing whatever financial aid an individual might require through a combination of grants, work-study employment, and loans. The obverse of this commitment is that Brown, like its peers, does not offer financial assistance on any basis other than financial need. We believe that this policy, which ensures that every qualified student can attend Brown, regardless of his or her financial circumstances, is just and equitable.

This is not to say that there is nothing the University can do. The commitment to need-blind/

need-based admissions does not preclude actively recruiting students from disadvantaged backgrounds, or tailoring the financial aid packages of the neediest students to increase the proportion of grants versus loans. Indeed, the University has recently done precisely this through the creation of the Sidney Frank Scholars program, which frees Brown's most economically-disadvantaged students of any future loan obligations. Nor does the current system preclude increasing financial aid to international students, who are currently excluded from the need-blind system.

Mindful of these constraints, but mindful also of Brown's history of racial exclusion, we recommend that the University

- maintain a vigorous commitment to recruiting and retaining a diverse student body, focusing in particular on increasing the representation of African American students at both the undergraduate and graduate levels;

- strengthen such initiatives as the Sidney Frank Scholars program and Talent Quest, a joint program of the Brown Admission Office and the Brown Alumni Schools Committee, to ensure that students from even the most economically disadvantaged backgrounds have every opportunity to study and prosper at Brown;

- to needy students from outside the United States, with a long-term goal of making Brown a need-blind institution for international students;

- dedicate particular attention to the recruitment of students from Africa and the West Indies, the historic points of origin and destination for most of the people carried on Rhode Island slave ships;

- maintain a vigorous commitment to recruiting and retaining a diverse faculty and nonacademic staff.

### **Use the resources of the University to help ensure a quality education for the children of Rhode Island**

If a single theme runs through this report, it is education. This focus reflects not only Brown's nature as an educational institution but also the nature of slavery: In large parts of our country, it was once a crime to teach a black person to read. During the age of abolition, many Americans, black as well as white, recognized education as essential to repairing the legacy of slavery and equipping the formerly enslaved for the full enjoyment of their rights as free people. The original Rhode Island Gradual Abolition Act, for example, required towns to provide the children of slaves with publicly-funded instruction in "reading, writing, and Arithmetic," a provision that clearly reflected the influence of Moses Brown. But the towns resented the expense and the state legislature removed the requirement. A similar process of advance and retreat occurred in the South, where the promise of an equal education for the newly free was swept away by the collapse of Reconstruction and the onset of Jim Crow, with its specious doctrine of separate but equal. Rather than promoting equality and common citizenship, public schools became vehicles for perpetuating inequality and segregation.

Racial segregation in public education was finally declared unconstitutional by the U.S. Supreme Court in its 1954 *Brown v. Board of Education* decision, yet today, more than half a century later, American public schools continue to be characterized by *de facto* racial segregation, as well as by profound disparities in school quality and student achievement. To appreciate the dimensions of the crisis, one need look no further than Providence, where forty-eight of the city's forty-nine public schools currently fail to meet federally-prescribed minimum standards for academic achievement. This situation represents a direct challenge to Brown University. One of the most obvious and meaningful ways for Brown to take responsibility for its past is by dedicating its resources to improving the quality of education available to the children of our city and state.

The resources that the University brings to the task are formidable. Brown is home to an array of institutions and programs with interests in public education, including the Education Department (which provides teacher training for both graduate and undergraduate students), the Swearer Center for Public Service, the Educational Alliance, the Annenberg Institute for School Reform, the Choices Program of the Watson Institute for International Studies, Brown Summer High School, and the newly created Urban Education Policy Program. Even more importantly, it is blessed with extraordinarily energetic students, literally hundreds of whom work in local schools as individual tutors and mentors, as well as in such programs as the Rhode Island Urban Debate League and the Arts/Literacy Project.

As the sheer variety of programs and initiatives suggests, Brown's efforts have been highly decentralized. They have also been ill-coordinated and chronically underfunded, creating problems of sustainability and limiting their systemic impact. The recent appointment of a director of educational outreach and the funding of a University liaison position in the office of the superintendent of Providence schools hold the promise of better coordination, but they are only the beginning. If Brown is to make a meaningful impact in local schools, it will require a sustained, substantial commitment of energy and resources over many years. We recommend that the University

- create professional development opportunities for Rhode Island public school teachers, including the opportunity to enroll in one Brown class per semester, without charge;

- expand the number of course offerings and available scholarships in Brown Summer High School, which has a long record of success in preparing local students for the challenges of college-level work;

- increase funding to Brown's Masters of Arts in Teaching Program, including full tuition waivers for students who commit themselves to working for at least three years in local public schools;

- create opportunities and incentives for Brown faculty to offer enrichment courses in local schools and to use their expertise to help develop new programs and curricular materials;

- invest substantial resources, including dedicated faculty positions, in the new Urban Education Policy Program, with an eye to establishing Brown as a national leader in this vital field;

- expand internship and service-learning opportunities for undergraduate students with interests in public education;

- coordinate its efforts with those of Rhode Island College, the Rhode Island School of Design, and Johnson and Wales University, each of which currently administers educational outreach programs in Providence public schools;

- provide administrative and staff support, through agencies such as the Swearer Center and the Office of Educational Outreach, to ensure effective collaboration and the sustainability of its educational initiatives.

### **Appoint a committee to monitor implementation of these recommendations**

# Endnotes

1 See Ruth Simmons, "Facing Up to Our Ties to Slavery," *Boston Globe*, April 28, 2004. That statement, as well as the president's original charge to the committee, are available at <http://www.brown.edu/slaveryjustice>.

2 For a calendar of committee-sponsored events, see <http://www.brown.edu/slaveryjustice>.

3 The curriculum is available at <http://www.choices.edu/slavery>.

4 For a selection of letters sent to committee see <http://www.brown.edu/slaveryjustice>.

5 Faunce's sermon is reprinted in *The Sesquicentennial of Brown University, 1764-1914: A Commemoration* (Providence: Brown University, 1915).

6 On the history of slavery in different parts of the world, see Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard University Press, 1982); M.I. Finley, *Ancient Slavery and Modern Ideology* (Princeton: Markus Wiener Publishers, 1998, orig. pub. 1980); William D. Phillips Jr., *Slavery from Roman Times to the Early Transatlantic Trade* (Minneapolis: University of Minnesota Press, 1985); Stanley Engerman, Seymour Drescher, and Robert Paquette (eds.), *Slavery* (New York: Oxford University Press, 2001); David B. Davis, *The Problem of Slavery in Western Culture* (Ithaca: Cornell University Press, 1966); Suzanne Miers and Igor Kopytoff, *Slavery in Africa: Historical and Anthropological Perspectives* (Madison: University of Wisconsin Press, 1977); and James Oakes, *Slavery and Freedom: An Interpretation of the Old South* (New York: Vintage Books, 1990). For an overview on human trafficking today, including readings and resources, see <http://www.humantrafficking.org>. The U.S. State Department issues an annual report on human trafficking and the status of national and international efforts to stop it; see <http://www.state.gov/g/tip/rls/tiprpt/2006/>.

7 Recent works on slavery in the Americas include David B. Davis, *Inhuman Bondage: The Rise and Fall of New World Slavery* (New York: Oxford University Press, 2006); David Eltis, *The Rise of African Slavery in the Americas* (New York: Cambridge University Press, 2000); and Robin Blackburn, *The Making of New World Slavery: From the Baroque to*

*the Modern, 1492-1800* (New York: Verso, 1997). The most thorough analysis of the scale and structure of the transatlantic trade is still Philip Curtin, *The African Slave Trade: A Census* (Madison: University of Wisconsin Press, 1969). See also David Eltis, "Free and Coerced Transatlantic Migrations: Some Comparisons," *American Historical Review* 88, 2 (1983), pp. 251-280.

8 Patterson, *Slavery and Social Death*, op. cit. See also Robin Blackburn, "Defining Slavery: Its Special Features and Social Role," in Leonie J. Archer (ed.), *Slavery and Other Forms of Unfree Labor* (Abingdon: Routledge, 1988); M.I. Finley, "Slavery," in David L. Sills (ed.), *International Encyclopedia of the Social Sciences* (New York: Macmillan, 1968), vol. 14, pp. 307-313; and James Oakes, "Slavery," in Mary K. Cayton, Elliott J. Gorn, and Peter W. Williams (eds.), *Encyclopedia of American Social History* (New York: Scribners, 1993), vol. 3, pp. 1407-1418.

9 See "Observations on Slave Keeping," *Providence Gazette*, December 4, 1773. Though there is no author identified for the treatise, it may have been the work of John Woolman, a prominent Quaker abolitionist. It was almost certainly placed in the *Gazette* by Moses Brown, whose conversion to the anti-slavery cause in 1773 is discussed below. On the emergence of biologically-based ideas of black inferiority, see Winthrop D. Jordan, *White Over Black: American Attitudes Toward the Negro, 1550-1812* (Chapel Hill: University of North Carolina Press, 1968); George Fredrickson, *Racism: A Short History* (Princeton: Princeton University Press, 2002); and Thomas F. Gossett, *Race: The History of an Idea in America* (Dallas: Southern Methodist University Press, 1963). On dehumanization as an essential component of slavery, see Davis, *Inhuman Bondage*, op. cit.

10 A. Leon Higginbotham, *In the Matter of Color: Race and the American Legal Process: The Colonial Period* (New York: Oxford University Press, 1978).

11 Steven Deyle, "By farr the most profitable trade': Slave Trading in British Colonial North America," *Slavery and Abolition* 10, 1 (1989), pp. 107-125. The standard work on New England slavery is still Lorenzo J. Greene, *The Negro in Colonial New England, 1620-1776* (New York: Columbia

University Press, 1942). On the trading of Native American captives to the West Indies, see Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (Chapel Hill: University of North Carolina Press, 1975).

12 Deyle, "By farr the most profitable trade," pp. 108-109. On the 1645 episode, involving the ship *Rainbow*, see Elizabeth Donnan (ed.), *Documents Illustrative of the History of the Slave Trade to America, Volume III: New England and the Middle Colonies* (Washington: Carnegie Institution, 1932), pp. 6-9.

13 "Act of the General Court, May 19, 1652," in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, p. 108. Recent studies of slavery and abolition in Rhode Island, including the efforts of later generations to minimize the institution's significance and severity, include Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and 'Race' in New England, 1780-1860* (Ithaca: Cornell University Press, 1998); Robert K. Fitts, *Inventing New England's Slave Paradise: Master/Slavery Relations in Eighteenth-Century Narragansett, Rhode Island* (New York: Garland Publishing, 1998); and John Wood Sweet, *Bodies Politic: Negotiating Race in the American North, 1730-1830* (Baltimore: Johns Hopkins University Press, 2003).

14 See "An Act authorizing the Manumission of Negroes, Molattoes & Others, and for the gradual Abolition of Slavery. February 26, 1784," *Acts and Resolves . . . of Rhode Island*, vol. 23, c# 00210; and "Act repealing Part of the act respecting the Manumission of Slaves. October, 1785," *Acts and Resolves . . . of Rhode Island*, vol. 24, p. 132. The terms of Rhode Island's gradual abolition legislation are discussed in more detail below.

15 The classic work on the Rhode Island slave trade is Jay Coughtry, *The Notorious Triangle: Rhode Island and the African Slave Trade 1700-1807* (Philadelphia: Temple University Press, 1981); see especially the appendix, pp. 239-285, which lists 954 known Rhode Island slaving voyages between 1709 and 1807. See also Sarah Deutsch, "Those Elusive Guineamen: Newport Slavers, 1735-1774," *New England Quarterly* 55, 2 (1982), pp. 229-253; Alexander Boyd Hawes, *Off Soundings: Aspects of the Maritime History of Rhode Island* (Chevy Chase: Posterity Press, 1999), pp. 103-207; and J. Stanley Lemons, "Rhode Island and the Slave Trade," *Rhode Island History* 60, 4 (2002), pp. 95-104. Donnan, *Documents Illustrative of the History of the Slave Trade to America, Volume III: New England and the Middle Colonies* (Washington: Carnegie Institution, 1932), contains a wealth of primary source material about the Rhode Island trade, including records from dozens of specific voyages.

16 Newport's duty on slave imports is referenced in John Russell Bartlett (ed.), *Records of the Colony of Rhode Island and Providence Plantations, in New England* (Providence: A.C. Greene and Brothers, 1865), vol. 4, p. 191. On the rum trade, see James B. Hedges, *The Browns of Providence Plantations: The Colonial Years* (Providence: Brown University Press, 1968, orig. pub. 1952), pp. 22-46; John J. McCusker, *Rum and the American Revolution: The Rum Trade and the Balance of Payments of the Thirteen Continental Colonies* (New York: Garland Publishing, 1989); Richard B. Sheridan, *Sugar and Slavery: An Economic History of the British West Indies, 1623-1775* (Baltimore: Johns Hopkins University Press, 1974); and Hawes, *Off Soundings*, pp. 116-120.

17 Filmmaker Katrina Browne, a descendant of the D'Wolf family and one of the speakers hosted by the steering committee, is currently completing a documentary film exploring her family's history and its meaning today; see <http://www.tracesofthetrade.org>.

18 Rachel Chernos Lin, "The Rhode Island Slave Traders: Butchers, Bakers and Candlestick Makers," *Slavery and Abolition* 23, 3 (2002), pp. 21-38.

19 On the West Indian provisioning trade, see Richard Pares, *Yankees and Creoles: The Trade Between North America and the West Indies Before the American Revolution* (London: Longmans, Green and Co., 1956); and Robert Grieve, *The Sea Trade and its Development in Rhode Island and Providence Plantations* (Providence: n.p., 1902). For representative provisioning voyages, see John Carter Brown Library, Brown Family Papers (hereafter BFP), Box 469/f2, Box 469/f10-f11, and Box 681/f3. For a reference to "Jamaica fish," see John Brown to Nicholas, Joseph, and Moses Brown, June 15, 1764, in BFP Box 356/f10. See also Robert W. Kenny, "Sea Captains Carousing in Surinam," *Rhode Island History* 36, 4 (1977), pp. 106-117.

20 "Remonstrance of the Colony of Rhode Island to the Board of Trade, 1764," in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 203-205.

21 Stephen Hopkins, *The Rights of Colonies Examined* (Providence: The Rhode Island Bicentennial Foundation, 1974, orig. pub. 1764). Hopkins expanded the argument in two other pamphlets, *An Essay on the Trade of the Northern Colonies of Great Britain in North America* (London: T. Becket & P.A. de Hondt, 1764), and *The Grievances of the American Colonies Candidly Examined. Printed by Authority at Providence, in Rhode-Island* (London: J. Almon, 1766). See also Nicholas Brown and Co. to Esek Hopkins, December 30, 1764, BFP Box 643/f6.

22 For a roster of Rhode Island slave ship owners and captains, including many with ties to Brown University, see David Eltis et. al. (eds.), *The Transatlantic Slave Trade*:

*A Database on CD-ROM* (Cambridge: Cambridge University Press, 1999). On the history of the University, see Reuben Aldridge Guild, *History of Brown University, with Illustrative Documents* (Providence: Providence Press Co., 1867); Aldridge, *Early History of Brown University, Including the Life, Times, and Correspondence of President Manning, 1756-1791* (Providence: Snow & Farnham, 1897); Walter C. Bronson, *The History of Brown University, 1764-1914* (Boston: D.B. Updike, 1914); and *The Sesquicentennial of Brown University, 1764-1914*, op. cit. The currently available history of the University, Janet M. Phillips, *Brown University: A Short History* (Providence: Brown University, 2000), says virtually nothing about slavery or the slave trade.

23 “The College to Nicholas Brown and Co., 1770-71, Full & minute list of all supplies and moneys expended by the Building Committee for the construction of the College Edifice and the President’s house,” Brown University Archives, Miscellaneous Papers Concerning Rhode Island College, 1763-1804, MS-1E-1. On the contribution of Lopez and Rivera, see Nicholas Brown and Co. to Aaron Lopez, March 15, 1770, and Lopez to Nicholas Brown and Co., March 27, 1770, both in BFP Box 34/f2; and Jacob Rivera to Nicholas Brown and Co., March 21, 1770, BFP Box 6/f7. On Lopez and the slave trade, see Virginia Bever Platt, “And Don’t Forget the Guinea Voyage’: The Slave Trade of Aaron Lopez of Newport,” *William and Mary Quarterly* 32, 4 (1975), pp. 601-618, and Stanley F. Cheyt, *Lopez of Newport: Colonial American Merchant Prince* (Detroit: Wayne State University Press, 1970).

24 The original subscription books from the endowment campaign are deposited in the Rhode Island History Society, Brown University Collection, MSS 317. The accounts are reprinted, along with Smith’s and Edward’s letters and diaries, in Guild, *History of Brown University, with Illustrative Documents*, pp. 148-171, 212-226.

25 Guild, *History of Brown University*, pp. 212-226. For black life on the Manigault plantation, see William Dusinberre, *Them Dark Days: Slavery in the American Rice Swamps* (New York: Oxford University Press, 1996). On Laurens, see James A. Rawley, “Henry Laurens and the Atlantic Slave Trade,” in *London: Metropolis of the Slave Trade* (Columbia: University of Missouri Press, 2003), pp. 82-97. Laurens became the primary Charleston agent for Rhode Island slave traders after Manigault withdrew from the business; see Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 150-164.

26 Six generations of Brown family business activities, including the family’s role in the founding of the College of Rhode Island, are recounted in James B. Hedges two-volume history, *The Browns of Providence Plantations: The Colonial Years* (Providence: Brown University Press, 1968,

orig. pub. 1952) and *The Browns of Providence Plantations: The Nineteenth Century* (Providence: Brown University Press, 1968). The brothers’ role in relocating the college to Providence is discussed in Mack Thompson, *Moses Brown: Reluctant Reformer* (Chapel Hill: University of North Carolina Press, 1962), pp. 51-69.

27 On the conflict between the brothers, see Charles Rappleye, *Sons of Providence: The Brown Brothers, the Slave Trade, and the American Revolution* (New York: Simon and Schuster, 2006), and below.

28 Rhode Island General Assembly, *Census of the Inhabitants of the Colony of Rhode Island and Providence Plantations* (Baltimore: Genealogical Publishing Co., 1969, orig. pub. 1774), pp. 38-39. References to slaves are scattered throughout the Brown Family Papers in the John Carter Brown Library. On James Brown’s 1728 purchase, see BFP Box 1076/f1; on the use of family-owned slaves in the Brown’s spermaceti candleworks, see BFP Box 338/f11.

29 On the *Speedwell*, see BFP Box 466/f5. On the voyage of the *Mary*, see Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 132-133, and Hedges, *The Browns of Providence Plantations: The Colonial Years*, pp. 6, 54-57, 70-71.

30 Papers relating to the *Wheel of Fortune*, including the original bill of lading for the ship, are in BFP Box 707/f2. Obadiah Brown noted the taking of the ship in his insurance book; see Rhode Island Historical Society, Obadiah Brown Papers, MSS 315, Insurance ledger, Box 2/f32, p. 18.

31 See Carter Braxton to Nicholas Brown and Co., February 1, 1763, Browns to Braxton, September 5, 1763, and Braxton to Browns, October 16, 1763, all in BFP Box 356/f8, and Braxton to Browns, June 1, 1763, BFP Box 5/f9.

32 Records of the *Sally*’s voyage are scattered through the Brown Family Papers, including BFP Box 339/f4, Box 340/f11, Box 468/f5, Box 469/f10, Box 643/f 5-7, Box 674/f3, Box 680/f7-8, Box 681/f3, and Box 707/f6. Additional documents can be found in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 194-195, 206-207, 210-211. The voyage has been recounted most recently in Rappleye, *Sons of Providence*, pp. 53-74. See also Darold D. Wax, “The Browns of Providence and the Slaving Voyage of the Brig *Sally*, 1764-1765,” *American Neptune* 32, 3 (1972), pp. 171-179, and Hedges, *The Browns of Providence Plantations: The Colonial Years*, pp. 74-81.

33 For Hopkins’s trade book, including all his transactions on the coast of Africa, see BFP Box 643/f7.



- 34 Alex Millock to Nicholas Brown and Co., November 25, 1765, BFP Box 674/f3; Nicholas Brown and Co. to Captains Whipple, Power, and Hopkins, November 15, 1765, BFP Box 536/f3.
- 35 Nicholas Brown and Co. to Esek Hopkins, November 16, 1765, BFP Box 29/f6.
- 36 On John's 1769 return to the African trade, and on his brothers' role in helping to outfit him for the venture, see Nicholas Brown and Co. to Benjamin Mason, December 12, 1769, BFP Box 234/f6. On John's subsequent involvement in the slave trade, see Eltis et al. (eds.), *The Transatlantic Slave Trade: A Database*, which lists him as a primary sponsor of four more slaving voyages: the *Sutton* (1769, Ref. # 36397); the *Providence* (1785, Ref. # 36520); the *Providence* (1786, Ref. # 36532); and the *Hope* (1795, Ref. # 36630). The database lists three other ships dispatched from Rhode Island in the 1790s by a group of investors including Benjamin and John Brown, but this appears to be an unrelated family with the same surname; see Refs. #36657, #36625, and #36661. None of the other brothers appears to have invested directly in transatlantic slaving voyages after the *Sally*. The database does list one slave ship, the *Fame* (Ref. #25643), as having been owned by Brown and Benson, the successor company to Nicholas Brown and Co., but this is erroneous. The *Fame*, which sailed from Boston in 1796, was not owned by George Benson, Nicholas Brown's partner, but by his half-brother Martin.
- 37 On the Quakers and antislavery, see Jean R. Soderlund, *Quakers and Slavery: A Divided Spirit* (Princeton: Princeton University Press, 1985); David B. Davis, *The Problem of Slavery in the Age of Revolution* (Ithaca: Cornell University Press, 1975); and Thomas E. Dixon, *Quakers and Slavery in America* (New Haven: Yale University Press, 1950). The 1760 resolution is quoted in W.D. Johnston, *Slavery in Rhode Island* (Providence: Rhode Island Historical Society, 1894), pp. 146-147.
- 38 Davis, *The Problem of Slavery in the Age of Revolution*, p. 48. The origins and character of the anti-slavery movement have been intensively debated by historians. For a survey of the debate, see Thomas Bender (ed.), *The Antislavery Debate: Capitalism and Abolitionism as a Problem in Historical Interpretation* (Berkeley: University of California Press, 1992)
- 39 The 1773 pamphlet is reprinted in Herbert Aptheker (ed.), *A Documentary History of the Negro People in the United States*, vol. 1 (Secaucus: The Citadel Press, 1951), pp. 7-8. On Newport's Free African Union Society, see William H. Robinson (ed.), *The Proceedings of the Free African Union Society and the African Benevolent Society, Newport, Rhode Island, 1780-1824* (Providence: The Urban League of Rhode Island, 1976). Much of the intellectual and political impetus of the growing anti-slavery movement, in England as well as the United States, was supplied by Africans and African Americans; see Vincent Carretta (ed.), *Thoughts and Sentiments on the Evil of Slavery and Other Writings by Ottobah Cugoana* (New York: Penguin Books, 1999); Carretta (ed.), *Unchained Voices: An Anthology of Black Authors in the English-Speaking World of the Eighteenth Century* (Lexington: University of Kentucky Press, 1996); and Benjamin Quarles, *Black Abolitionists* (New York: Oxford University Press, 1969)
- 40 *Providence Gazette*, October 22, 1774. For the full text, see John Wesley, *Thoughts Upon Slavery* (Philadelphia: Joseph Crukshank, 1774).
- 41 On Brown's conversion to the anti-slavery cause, see James Francis Reilly, "Moses Brown and the Rhode Island Antislavery Movement," M.A. thesis in history, Brown University, 1951. (The quotation is on p. 22.) See also Thompson, *Moses Brown: Reluctant Reformer*, pp. 70-91; and Rappleye, *Sons of Providence*, pp. 127-149.
- 42 Moses Brown to Clark and Nightingale, August 26, 1783, Rhode Island Historical Society, Moses Brown Papers, MSS 313 [hereafter MBP], Box 3c/f63. The letter is reprinted in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 334-335.
- 43 Moses Brown to Samuel Hopkins, March 3, 1784, MBP Box 4/f72. The texts of the 1774 and 1787 slave trade acts are reprinted in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 289-290, 343-344. For the political struggles around the bills, see Thompson, *Moses Brown: Reluctant Reformer*, pp. 92-106, 175-202; and Rappleye, *Sons of Providence*, pp. 127-149, 223-271.
- 44 Rappleye, *Sons of Providence*, pp. 294-300.
- 45 John Brown to Moses Brown, November 27, 1786, MBP Box 4c/f84. On the voyage of the *Providence*, see Eltis, *The Transatlantic Slave Trade Database*, Record #36352.
- 46 For a sampling of the debate, see *Providence Gazette and Country Journal*, February 14, 1789; February 21, 1789; and March 14, 1789; and *United States Chronicle*, February 26, 1789; February 28, 1789; and March 26, 1789. For the Abolition Society's roster, as well as minutes of early meetings, see Rhode Island Historical Society, Papers of the New England Yearly Meeting of Friends, "Abolition Society Book, January 29, 1789 to February 16, 1827." See also James F. Reilly, "The Providence Abolition Society," *Rhode Island History* 21,2 (1962), pp. 33-48.
- 47 The transcript of the case, involving a ship called the *Hope*, is reprinted in Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 352-358. See also Coughtry, *Notorious Triangle*, pp. 206-212.

- 48 For prosecutions under the federal anti-slave trade law, including the cases against Cyprian Sterry and John Brown, see Coughtry, *Notorious Triangle*, pp. 212-224; and Rappleye, *Sons of Providence*, pp. 301-312.
- 49 The brothers debated the prosecution for much of 1797. See Moses Brown to John Brown, March 15, 1797, MBP Box 7c/f146; John Brown to Moses Brown, July 29, 1797, MBP Box 7c/f149; and John Brown to Moses Brown, November 17, 1797, MBP Box 7c/f151.
- 50 Moses Brown to Dwight Foster, January 30, 1800, MBP Box 7c/160. Following the judgment, John wrote a gleeful letter to his son, James, hailing his victory over “this Wicked and Abominable Combination[,] I mean the Abolition Society.” Quoted in Hawes, *Off Soundings*, pp. 194-195. Although the trial transcript does not survive, the records of the earlier libel hearing, in which the offending ship was confiscated, are housed in the Federal Records Center, Waltham, Massachusetts, Papers of the U.S. District Court (Rhode Island), Case Books, I: 72-73.
- 51 The episode is recounted in George L. Howe, *Mount Hope: A New England Chronicle* (New York: Viking Press, pp. 107-108, and Coughtry, *Notorious Triangle*, pp. 216-218. On slave ship clearances from Rhode Island after 1800, see Coughtry, *Notorious Triangle*, pp. 274-285; Donnan, *Documents Illustrative of the History of the Slave Trade*, vol. III, pp. 383-404; and James A. McMillin, *The Final Victims: Foreign Slave Trade to North America, 1783-1810* (Columbia: University of South Carolina Press, 2004).
- 52 See Coughtry, *Notorious Triangle*, pp. 218-237.
- 53 Quoted in Coughtry, *Notorious Triangle*, pp. 228-229. In the space of just six months, from late 1805 to early 1806, the Mount Hope Insurance Company issued policies on nearly fifty Africa-bound Rhode Island ships, the majority of them from Bristol. The company’s policy book, deposited in the Bristol Historical Society, has several pages ripped from it, perhaps indicating that the company continued to issue policies even after the 1807 Congressional ban on slave trading. The apprehension of a slave ship at Bristol in 1819 is recorded in the Rhode Island Historical Society, Channing-Ellery Papers, MSS 341, September 15, 1819.
- 54 Brown University Archives, James Manning Papers, MS-1C-1, Moses Brown to James Manning, January 30, 1786. Moses Brown to James Manning, January 30, 1786. See also Moses Brown to Samuel Hopkins, January 20, 1786, MPB Box 4c/f79, and Samuel Hopkins to Moses Brown, March 7, 1787, MBP Box 4c/f85. On Thomas Clarkson and the rise of the British abolition movement, see Adam Hochschild, *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire’s Slaves* (Boston: Houghton Mifflin, 2005).
- 55 James Tallmadge, “An oration upon the infringement of the rights of man, to be delivered at the commencement of Rhode Island College, September 5th, 1790,” Brown University Archives, Collection of Student Essays, MS-1N-1.
- 56 Tallmadge, “An oration upon the infringement of the rights of man . . .”
- 57 The correspondence between Manning and Carter is in the Brown University Archives, James Manning Papers, MS-1C-1, Series 5. See also Andrew Levy, *First Emancipator: The Forgotten Story of Robert Carter, the Founding Father Who Freed His Slaves* (New York: Random House, 2005).
- 58 Charles Hoffmann and Tess Hoffmann, *North by South: The Two Lives of Richard James Arnold* (Athens: University of Georgia Press, 1988). On Brown-trained clergymen in the South, see Larry E. Tise, *Proslavery: A History of the Defense of Slavery in America, 1701-1840* (Athens: University of Georgia Press, 1987), p. 142.
- 59 Moses Brown to Jedediah Morse, April 23, 1791, in MBP Box 5c/f112. On the rise of the U.S. textile industry, including the contribution of Moses Brown, see Caroline Ware, *The Early New England Cotton Manufacture: A Study in Industrial Beginnings* (New York: Russell and Russell, 1966); Ronald Bailey, “‘Those Valuable People, the Africans’: The Economic Impact of the Slave(ry) Trade on Textile Industrialization in New England,” in David Roediger and Martin H. Blatt (eds.), *The Meaning of Slavery in the North* (New York: Garland Publishing, 1998); Thompson, *Moses Brown: Reluctant Reformer*, pp. 203-23; Hedges, *The Browns of Providence Plantations: The Nineteenth Century*, pp. 159-185; and James L. Conrad, *Between Revolutions: The Early Rhode Island Cotton Textile Industry, 1788-1800*. (Thanks to Professor Conrad for sharing this unpublished manuscript.)
- 60 Quoted in Coughtry, *Notorious Triangle*, p. 231. John’s taunt appeared in the *Providence Gazette and Country Journal*, February 28, 1789.
- 61 Brown and Almy initially relied on long-staple cotton produced by slaves in Surinam (some of it imported by John Brown), but the firm soon began to purchase short-staple cotton from the U.S. South. Indeed, the first cotton ginned by Eli Whitney’s new device was sent to Moses Brown for test spinning. See Conrad, *Between Revolutions*, op. cit. On cotton’s importance to the antebellum economy, see Stuart Bruchey, *Cotton and the Growth of the American Economy, 1790-1860: Sources and Readings* (New York: Harcourt, Brace & World, Inc., 1967).

- 62 On the “Negro cloth” industry, see Susan Oba, “‘Mostly Made, Especially for this Purpose, in Providence, R.I.’: The Rhode Island Negro Cloth Industry,” B.A. honors thesis in history, Brown University, 2006. (The comment of the South Carolina grand jury is quoted on p. 22.) See also Myron O. Stachiw, “‘For the Sake of Commerce’: Slavery, Antislavery, and Northern Industry,” in Roediger and Blatt, *The Meaning of Slavery in the North*.
- 63 Frederick Law Olmsted, *The Cotton Kingdom: A Traveller’s Observations on Cotton and Slavery in the American Slave States. Based Upon Three Former Volumes of Journeys and Investigations by the Same Author*, edited and introduced by Arthur Schlesinger (New York: Knopf, 1953), p. 12. On the Hazards and the Negro cloth industry, see Oba, “Mostly Made, Especially for this Purpose, in Providence, R.I.”
- 64 For a sampling of anti-abolitionist rhetoric, see John David Smith (ed.), *Anti-Abolition Tracts and Anti-Black Stereotypes* (New York: Garland Publishing, 1993). On mobs, see Leonard Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America* (New York: Oxford University Press, 1970), and David Grimsted, *American Mobbing, 1828-1861: Toward Civil War* (New York: Oxford University Press, 1998), pp. 3-84. On Garrison, the rise of the American Anti-Slavery Society, and the 1835 postal campaign, see Henry Mayer, *All on Fire: William Lloyd Garrison and the Abolition of Slavery* (New York: St. Martin’s Griffin, 2000); John L. Thomas, *The Liberator: William Lloyd Garrison. A Biography* (Boston: Little, Brown, 1963); and Bertram Wyatt-Brown, “The Abolitionists’ Postal Campaign of 1835,” *Journal of Negro History* 50, 4 (1965), pp. 227-238.
- 65 *Newport Mercury*, September 19, 1835.
- 66 “Anti-Abolition Meeting,” *Providence Daily Journal*, November 4, 1835.
- 67 Codicil to Will and Testament, June 25, 1835, MBP Box 4x/f17.
- 68 Gary J. Kornblith and Carol Lasser, “Oberlin College,” in Paul Finkelman (ed.), *Encyclopedia of African American History, 1619-1895* (New York: Oxford University Press, 2006). The episode at Wesleyan was reported in *The Liberator*, September, 1833.
- 69 Josiah Quincy, quoted in Ronald Story, *The Forging of an Aristocracy: Harvard and the Boston Upper Class, 1800-1870*, p. 76. See also Samuel Eliot Morison, *Three Centuries of Harvard, 1636-1936* (Cambridge: Harvard University Press), p. 254; Kenneth S. Sacks, *Understanding Emerson: “The American Scholar” and his Struggle for Self-Reliance* (Princeton: Princeton University Press, 2002), p. 40; and Judith Ann Schiff, “Pioneers,” *Yale Alumni Magazine* 69,3 (January-February, 2006). On African Americans at Harvard Medical School, see Ronald Takaki, “Aesculapius was a White Man: Antebellum Racism and Male Chauvinism at Harvard Medical School,” *Phylon* 39,2 (1978), pp. 129-135; and Nora M. Necessian, *Against All Odds: The Legacy of Students of African Descent at Harvard Medical School before Affirmative Action, 1850-1968* (Cambridge: President and Fellows of Harvard College, 2004).
- 70 Francis Wayland to James Hoby, December 25, 1837, quoted in Jeremy Chase, “Francis Wayland: A Uniting Force in an Era of Disunion,” B.A. honors thesis in history, Brown University, 2006, p. 10. (Emphasis in original.) See also Wayland, *The Elements of Moral Science, Fourth Edition, Revised and Stereotyped* (Boston: Gould, Kendall, and Lincoln, 1837), and Francis Wayland and H.L. Wayland, *A Memoir of the Life and Labors of Francis Wayland, D.D., L.L.D., Late President of the University: Including Selections from his Personal Reminiscences and Correspondence* (New York: Sheldon and Company, 1868).
- 71 Francis Wayland, *The Limitations of Human Responsibility* (Boston: Gould, Kendall, and Lincoln, 1838). (The quotation is on p. 81.) See also Francis Wayland and Richard Fuller, *Domestic Slavery Considered as a Scriptural Institution: in a correspondence between the Reverend Richard Fuller and the Reverend Francis Wayland* (Boston: Gould, Kendall, and Lincoln, 1845). Wayland finally recanted his position in 1854, following the passage of the Kansas-Nebraska Act, which he interpreted as a southern attempt to nationalize slavery. In a blistering speech at a Providence rally, he declared, “The question ceases to be whether black men are forever to be slaves, but whether the sons of Puritans are to become slaves themselves.” The speech was widely reprinted in the South, prompting several southern universities to cease using Wayland’s text in their courses on moral philosophy. See Chase, “Francis Wayland,” pp. 111-127.
- 72 Robert Perkins Brown et al. (eds.), *Memories of Brown: Traditions and Recollections Gathered from Many Sources* (Providence: *Brown Alumni Magazine*, 1909), p. 87. On student debates and orations on slavery and abolition, see Chase, “Francis Wayland,” pp. 70-80.
- 73 On Phillips visit, see Brown et al. (eds.), *Memories of Brown*, pp. 80-81. On Brown students in the abolition movement, see *Proceedings of the Rhode Island anti-slavery convention held in Providence, on the 2d, 3d, and 4<sup>th</sup> of February, 1836* (Providence: H.H. Brown, 1836). On Dresser, see “An Abolitionist Caught,” *Newport Mercury*, August 29, 1835.

74 On Brown students and the Civil War, see Henry S. Burrage, *Brown University in the Civil War: A Memorial* (Providence: Providence Press Company, 1868); Martha Mitchell (ed.), *Encyclopedia Brunoniana* (Providence: Brown University Library, 1993), pp. 142-144; and Eric Stoykovich, "Conceptions of Death During the Civil War as Seen in the Gravemarkers and Memorials of Brown University's Civil War Dead," undergraduate essay, Brown University, 2001.

75 See J. Harold Ellers (ed.), *The Destructive Power of Religions: Violence in Judaism, Christianity, and Islam* (4 vols.) (Westport: Praeger, 2004); Kurt Raaflaub and Nathan Rosenstein (eds.), *War and Society in the Ancient and Medieval Worlds: Asia, the Mediterranean, Europe, and Mesoamerica* (Cambridge: Harvard University Press, 1999); Michael Howard, George J. Andreopoulos, and Mark S. Schulman (eds.), *The Laws of War in the Western World* (New Haven: Yale University Press, 1994); and Peter Partner, *God of Battles: Holy Wars of Christianity and Islam* (Princeton: Princeton University Press, 1998).

76 Classic works on the subject include Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, Brace, 1951); Jacob L. Talmon, *The Origins of Totalitarian Democracy* (New York: Praeger, 1960); Frantz Fanon, *The Wretched of the Earth*, transl. by Robert Philcox (New York: Grove Press, 2004, orig. pub. 1961); and Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*, 2nd ed. (Boston: Beacon Press, 2001). For more recent work, emphasizing a variety of cases, contexts, and causes, see George L. Mosse, *Toward the Final Solution: A History of European Racism* (Madison: University of Wisconsin Press, 1985); Pat Shipman, *The Evolution of Racism: Human Differences and the Use and Abuse of Science* (Cambridge: Harvard University Press, 1994); Norman Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth-Century Europe* (Cambridge: Harvard University Press, 2001); Michael Mann, *The Darker Side of Democracy: Explaining Ethnic Cleansing* (New York: Cambridge University Press, 2004); Robert Gellately and Ben Kiernan (eds.), *The Specter of Genocide: Mass Murder in Historical Perspective* (New York: Cambridge University Press, 2003); Omer Bartov and Phyllis Mack (eds.), *In God's Name: Genocide and Religion in the Twentieth Century* (New York: Berghahn Books, 2001); Ervin Staub, *The Roots of Evil: The Origins of Genocide and Other Group Violence* (New York: Cambridge University Press, 1989); Robert Conquest, *The Harvest of Sorrow: Soviet Collectivization and the Terror - Famine* (New York: Oxford University Press, 1986); Stephanie Courtois et. al. (eds.), *The Black Book of Communism: Crimes, Terror, Repression* (Cambridge: Harvard University Press, 1999); Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda* (West Hartford: Kumarian Press, 1998); Mahmood Mamdani, *When Victims Become Killers: Colonialism,*

*Nativism, and the Genocide in Rwanda* (Princeton: Princeton University Press, 2001); Ben Kiernan, *How Pol Pot Came to Power: Colonialism, Nationalism, and Communism in Cambodia, 1930-1975*, 2nd ed. (New Haven: Yale University Press, 2004).

77 All these cases are discussed in more detail below.

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102 See H. Con. Res. 96, 105th Congress, 1st Session (1997). For recent presidential statements, see Ann Scales, "Clinton, in Senegal, Revisits Slavery's Horrors, Emotional End to Historic Trip," *Boston Globe*, April 3, 1998; and John Donnelly, "Bush Condemns Slavery as one of 'Greatest Crimes,'" Speech at Source of African Trade Gives No Apology," *Boston Globe*, July 9, 2003. For the full text of Bush's speech, see Alfred Brophy, *Reparations: Pro and Con* (New York: Oxford University Press, 2006), pp. 203-206. Clinton's reticence was particularly noteworthy, given signals from the administration in the days before the speech that an apology was forthcoming. The retreat may have been in response to domestic opponents, who were already ridiculing Clinton's Africa visit as the "contrition tour," but at least one administration official attributed it to fears that an explicit apology might stimulate reparations claims; see *U.S. News and World Report*, April 6, 1998.

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*Without Forgiveness* (New York: Doubleday, 1999), and Alex Boraine, *A Country Unmasked: Inside South Africa's Truth and Reconciliation Commission* (New York: Oxford University Press, 2001); and Pumla Gobodo-Madikizela, "Healing the Racial Divide? Personal Reflections on the Truth and Reconciliation Commission," *South African Journal of Psychology* 27,4 (1997), pp. 271-272. See also Gobodo-Madikizela, *A Human Being Died that Night: A South African Story of Forgiveness* (Boston: Houghton Mifflin, 2003).

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111 On Rosewood, see Florida Board of Regents, *A Documented History of the Incident Which Occurred at Rosewood, Florida, in January 1923* (Tallahassee: Board of Regents, 1993) and Michael D'Orso, *Like Judgment Day: The Ruin and Redemption of a Town Called Rosewood* (New York: Boulevard Books, 1996). The work of the Greensboro Truth and Community Reconciliation Project can be reviewed at <http://www.gtcp.org>; on Wilmington, see <http://www.ah.dcr.state.nc.us/1898-wrrc/report/report.htm>. Details of other such initiatives, focusing on the 1906 Atlanta race riot and several of the South's most notorious lynchings, can be found at <http://www.southerntruth.org>. One legal scholar has advocated the convening of a national truth commission to examine America's history of lynching; see Sherrilyn A. Ifill, "Creating a Truth and Reconciliation Commission for Lynching," *Law and Inequality* 21, 2 (2003), pp. 263-312.

112 On the Tulsa case, see Alfred L. Brophy, *Reconstructing the Dreamland: The Tulsa Riot of 1921: Race, Reparations, and Reconciliation* (New York: Oxford University Press, 2002), and Brophy, "The Tulsa Race Riot Commission, Apology, and Reparation: Understanding the Fundamentals and Limitations of a Historical Truth Commission," in Barkan and Karn (eds.), *Taking Wrongs Seriously*, op. cit. Materials related

to *Alexander v. Oklahoma*, including the complaint, the judgments of the 10th Circuit Court of Appeals, and the refusal of the U.S. Supreme Court to grant certiorari in the case, can be found at <http://www.tulsareparations.org>.

113 All these questions are discussed in detail below. On the theory and practice of reparations in different historical contexts, see Pablo de Greiff, *The Handbook of Reparations* (New York: Oxford University Press, 2006). For an exploration of these issues in relationship to slave redress demands in the United States, see Alfred L. Brophy, *Reparations: Pro and Con*, op. cit. The problem of assessing the value of reparations claims is explored in Dalton Conley, "Calculating Slavery Reparations: Theory, Numbers, and Implications," in Torpey (ed.), *Politics and the Past*, op. cit. See also William Darity and Dania Frank, "The Economics of Reparations," *American Economic Review* 93, 2 (2003), pp. 326-329.

114 On the Tuskegee bio-ethics center, see <http://www.tuskegee.edu/Global/story.asp?S=1129940>.

115 See the special "Black Hills Issue" of *Wicazo Sa Review* 4,1 (1988). See also Barkan, *The Guilt of Nations*, pp. 169-215.

116 For procedures and payments under the September 11 Victim Compensation Fund, see <http://www.usdoj.gov/archive/victimcompensation/>.

117 For a comparative analysis of the Japanese American and Japanese Canadian experiences, see Torpey, *Making Whole What Has Been Smashed*, pp. 78-106. On the Canadian "First Nations" case, see Clifford Krauss, "80,000 Native Canadians to Be Compensated for School Abuse," *New York Times*, April 27, 2006.

118 For the range of Holocaust restitution and reparations programs, see Pross, *Paying for the Past*, op. cit.

119 Pross, *Paying for the Past*, op. cit.

120 See Michael J. Bazylar, *Holocaust Justice: The Battle for Restitution in America's Courts* (New York: New York University Press, 2003), pp. 1-58. See also Bazylar, "Holocaust Restitution in the United States and Other Claims for Historical Wrongs – an Update," *International Civil Liberties Report* (2001), and subsequent annual updates

121 See in re Holocaust Victim Assets Litigation, 105 F. Supp. 2d (E.D.N.Y. 2000). For the wider context, history, and outcome of the litigation, see Michael J. Bazylar and Roger P. Alford (eds.), *Holocaust Restitution: Perspectives on the Litigation and its Legacy* (New York: New York University Press, 2006); Bazylar, *Holocaust Justice*, pp. 59-109; and Bazylar, "Holocaust Restitution in the United States," op. cit. The most recent work on Nazi forced labor practices is



Wolf Gruner, *Jewish Forced Labor Under the Nazis: Economic Needs and Racial Aims, 1938-1944* (New York: Cambridge University Press, 2006).

122 On the disbursal of funds, see Burt Neuborne, "A Tale of Two Cities: Administering the Holocaust Settlement in Brooklyn and Berlin," in Bazylar and Alford, *Holocaust Restitution: Perspectives on the Litigation and its Legacy*.

123 The most systematic critique of the "tort" model of reparations is Roy L. Brooks, *Atonement and Forgiveness: A New Model for Black Reparations* (Berkeley: University of California, 2004), which proposes an alternative "atonement" model rooted in dialogue and shared discovery of the meaning of the past.

124 Details of the Armenian cases, including claims and eventual settlement, can be reviewed at <http://www.armenianinsurancesettlement.com>. On cases involving human remains, sacred relics, and other cultural property, see Elazar Barkan and Ronald Bush (eds.), *Claiming the Stones, Naming the Bones: Cultural Property and the Negotiation of National and Ethnic Identity* (Los Angeles: Getty Research Institute, 2002) and Barkan, *The Guilt of Nations*, pp. 169-215. On recent litigation involving World War II era atrocities committed by officials and soldiers of Imperial Japan, see in re World War II Era Japanese Forced Labor Litigation, 114 F. Supp. 2d 939 (N.D. Cal. 2000); in re World War II Era Japanese Forced Labor Litigation, 164 F. Supp. 2d 1160 (N.D. Cal. 2001); and *Hwang Geum Joo v. Japan*, 172 F. Supp. 2d (D.D.C., 2001). Other cases are discussed elsewhere in the report.

125 Michael C. Dawson and Rovana Popoff, "Reparations: Justice and Greed in Black and White," *Du Bois Review* 1 (2004), pp. 47-91. A *USA Today* survey produced similar numbers; see *USA Today* Feb. 22, 2002. Arguments against reparations for slavery can be sampled at <http://www.wewontpay.com>. Some of the most strenuous opposition to reparations has come from African Americans. See, for example, John McWhorter, "Against Reparations: Why African Americans Can Believe in America," *New Republic*, July 23, 2001; and Shelby Steele, "... or a Childish Illusion of Justice? Reparations Ensure Victimhood, Dishonoring our Ancestors," *Newsweek*, August 27, 2001. For a critique from the left, see Adolph Reed, "The Case Against Reparations," *Progressive*, December, 2000.

126 David Horowitz, "Ten Reasons Why Reparations for Slavery is a Bad Idea – and Racist Too," *Brown Daily Herald*, March 13, 2001. On the ensuing controversy, see Norman Boucher, "The War Over Words," *Brown Alumni Magazine* 101, 5 (2001), pp. 34-41; and David Horowitz, *Uncivil Wars: The Controversy Over Reparations for Slavery* (San Francisco: Encounter Books, 2002). Ruth Simmons, who assumed

the presidency of Brown a few months after the episode, referred obliquely to the controversy in her speech to entering freshmen at the university's Fall 2001 Convocation. "Knowledge is rooted in freedom of speech and inquiry," she reminded students, adding that anyone who had come to Brown expecting to be shielded from uncomfortable ideas should leave now. See [http://www.brown.edu/Administration/George\\_Street\\_Journal/vol26/26GSJ02a.html](http://www.brown.edu/Administration/George_Street_Journal/vol26/26GSJ02a.html).

127 Charles Ogletree, "Litigating the Legacy of Slavery," *New York Times*, March 31, 2002. See also Randall Robinson, *The Debt: What America Owes to Blacks* (New York: Dutton, 2000), which singles out Brown as an example of an institution resting on profits derived from slavery and the slave trade. The Fleetbank case is discussed, along with other reparations lawsuits, below.

128 *Providence Journal*, August 21, 2002. For an early example of slavery reparations advocacy, citing the authority of the Old Testament, see James Swan, "A Dissuasion to Great-Britain and the Colonies, From the Slave Trade to Africa... 1772," in Roger Bruns (ed.), *Am I Not a Man and a Brother: The Antislavery Crusade of Revolutionary America, 1688-1788* (New York: Chelsea House, 1977).

129 See Roy E. Finkenbine, "Belinda's Petition: Reparations for Slavery in Revolutionary Massachusetts." (Thanks to Professor Finkenbine for sharing this unpublished paper.) Belinda's petition is reprinted in Vincent Carretta (ed.), *Unchained Voices: An Anthology of Black Authors in the English-Speaking World of the Eighteenth Century* (Lexington: University of Kentucky Press, 1996), pp. 142-144. It appears that the pension ceased after a year or two, prompting Belinda to file another petition in 1787, after which she disappears from the historical record. Isaac Royall, who had made his fortune as a Caribbean planter before settling in Massachusetts, also has the distinction of endowing the first law professorship in American history, the Royall Professorship at Harvard Law School.

130 See "An Act authorizing the Manumission of Negroes, Molattoes & Others, and for the gradual Abolition of Slavery. February 26, 1784," *Acts and Resolved... of Rhode Island*, vol. 23, c# 00210; and "Act repealing Part of the act respecting the Manumission of Slaves. October, 1785," *Acts and Resolves... of Rhode Island*, vol. 24, p. 132. See also Robert W. Fogel and Stanley L. Engerman, "Philanthropy at Bargain Prices: Notes on the Economics of Gradual Emancipation," *The Journal of Legal Studies* 3, 2 (1974), pp. 377-401.

131 “An Act to prevent clandestine Marriages,” *Public Laws of the State of Rhode-Island . . . January, 1798* (Providence: Carter and Wilkinson, 1798), p. 483; *Public Laws of the State of Rhode-Island . . . Passed since . . . 1798* (Providence: Jones and Wheeler, 1810), p. 31. On escalating racial discrimination in the age of gradual abolition, see Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and ‘Race’ in New England, 1780-1860* (Ithaca: Cornell University Press, 1998), and John Wood Sweet, *Bodies Politic: Negotiating Race in the American North, 1730-1830* (Baltimore: Johns Hopkins University Press, 2003). On disfranchisement, see *Public Laws of the State of Rhode-Island, as Revised by a Committee . . . January, 1822* (Providence: Miller and Hutchinson, 1822); *Newport Mercury*, January 19, 1822; and James T. Adams, “Disfranchisement of Negroes in New England,” *American Historical Review* 30 (1925), pp. 543-546. Blacks in Rhode Island recovered the franchise through the new state constitution of 1842; see Stanley J. Lemons and Michael A. McKenna, “The Re-enfranchisement of Rhode Island Negroes,” *Rhode Island History* 30 (1971), pp. 3-13. For the experience of gradual abolition in other northern states, see Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago: University of Chicago Press, 1967); Gary B. Nash and Jean R. Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and its Aftermath* (New York: Oxford University Press, 1991); David N. Gellman, *Emancipating New York: The Politics of Slavery and Freedom, 1777-1827* (Baton Rouge: Louisiana State University Press, forthcoming); and David Menschel, “Abolition Without Deliverance: The Law of Connecticut Slavery, 1784-1848,” *Yale Law Journal* 111, 1 (2001), p. 183-222.

132 On Hardscrabble and its aftermath, see Sweet, *Bodies Politic*, pp. 353-397. See also Howard Chudacoff and Theodore C. Hirt, “Social Thought and Governmental Reform in Providence, 1820-1832,” *Rhode Island History* 31,1 (1972), pp. 23-31. For a contemporary account of the trial, including Tillinghast’s oration, see *Hardscrabble Calendar: Report of the Trials of Oliver Cummins [et al.] . . . for a Riot . . . at Hard Scrabble* (Providence: n.p., 1824).

133 See *A Short History of the African Union Meeting and School-House, erected in Providence (R.I.) in the years 1819, ’20, ’21: with rules for its future government* (Providence: Rhode Island Council for the Humanities and Rhode Island Black Heritage Society, 2004, orig. pub. 1821). On black life in Providence, including efforts to secure education, see Robert J. Cottrol, *The Afro-Yankees: Providence’s Black Community in the Antebellum Era* (Westport: Greenwood, 1982); Rhode Island Black Heritage Society, *Creative Survival: The Providence Black Community in the Nineteenth Century* (Providence: RIBHS, 1985); and William J. Brown, *The Life of William J. Brown, of Providence, R.I. With personal recollections of incidents in Rhode Island* (Providence: Angell & Co., 1883).

134 The campaign for integrated schools can be traced through a series of published broadsides from the late 1850s, most of them penned by George T. Downing, a leader of Providence’s black community. All are held in the Hay Library at Brown University. See “Will the General Assembly Put Down Caste Schools?” (1857), “Abolition of Colored Schools” (1857), “Dear Sir, The Interest and Anxiety We Feel in the Matter of Educating our Children . . .” (1858), “We Would Ask, Why Deny Us Our School Rights” (1859), and “To the Friends of Equal Rights in Rhode Island” (1859). The *Providence Journal* editorials appeared on March 29, 1859 and April 2, 1859. See also Laurence Grossman, “George T. Downing and the Desegregation of Rhode Island Public Schools, 1855-1866,” *Rhode Island History* 36,4 (1977), pp. 99-102, and Rachel Van Cleve, “The Fight for Rhode Island School Integration, 1856-1866,” unpublished undergraduate essay, Brown University, 2005.

135 On compensated emancipation in the District of Columbia, see Michael J. Kurtz, “Emancipation in the Federal City,” *Civil War History* 24, 2 (1978), pp. 250-267. On the Emancipation Proclamation, see Allen C. Guelzo, *Lincoln’s Emancipation Proclamation: The End of Slavery in America* (New York: Simon and Schuster, 2004). On the Thirteenth Amendment, see Michael Vorenberg, *Final Freedom: The Civil War, the Abolition of Slavery, and the Thirteenth Amendment* (New York: Cambridge University Press, 2001).

136 The best overview of Reconstruction is Eric Foner, *Reconstruction: America’s Unfinished Revolution* (New York: Harper & Row, 1988). See also W.E.B. Du Bois, *Black Reconstruction: An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct American Democracy, 1860-1880* (New York: Harcourt, Brace and Co., 1935), and Foner, *Freedom’s Lawmakers: A Directory of Black Officeholders During Reconstruction* (Baton Rouge: Louisiana State University Press, 1996). On the collapse of Reconstruction, see C. Vann Woodward, *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction* (Garden City: Doubleday, 1964); William Gillette, *Retreat from Reconstruction, 1869-1879* (Baton Rouge: Louisiana State University Press, 1979); and Heather Cox Richardson, *The Death of Reconstruction: Race, Labor, and Politics in the Post-Civil War North, 1865-1901* (Cambridge: Harvard University Press, 2001). On violent conflict during Reconstruction, including the strenuous resistance of black southerners to efforts to restore white supremacy, see Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South, from Slavery to the Great Migration* (Cambridge: Harvard University Press, 2003).

137 Michael Vorenberg, "Abraham Lincoln and the Politics of Black Colonization," in Thomas F. Schwartz (ed.), *For a Vast Future Also: Essays from the Journal of the Abraham Lincoln Association* (New York: Fordham University Press, 1999). On demands for back wages and other kinds of compensation, see Foner, *Reconstruction*, pp. 104-108, passim.

138 The "delusion" comment, by historian George R. Benson is quoted in John David Smith, "The Enduring Myth of 'Forty Acres and a Mule,'" *Chronicle of Higher Education*, February 21, 2003. The calculation of the current value of the claim is by William A. Darity Jr., an economist who has written extensively on reparations issues and one of the speakers hosted by the steering committee. See Darity "Reparations," in Samuel L. Myers (ed.), *Civil Rights and Race Relations in the Post-Reagan-Bush Era* (Westport: Praeger, 1997), and Darity, "Forty Acres and a Mule in the Twenty-First Century," unpublished paper, 2004. On H.R. 40, see below.

139 The text of Field Order #15 is available at <http://www.history.umd.edu/Freedmen/sfo15.htm>. On the status of confiscated land, including the problem of uncertain title, see LaWanda Cox, "The Promise of Land for the Freedmen," *Mississippi Valley Historical Review* 45 (1958), pp. 413-440, and Daniel Wilson Hamilton, "The Limits of Sovereignty: Legislative Property Confiscation in the Union and the Confederacy," Ph.D. dissertation in history, Harvard University, 2003.

140 See Foner, *Reconstruction*, pp. 124-227, 392-411, passim. See also LaWanda Cox, "Andrew Johnson and his Ghost Writers: An Analysis of the Freedmen's Bureau and Civil Rights Veto Messages," in Donald G. Nieman (ed.), *Freedom, Racism, and Reconstruction: Collected Writings of LaWanda Cox* (Athens: University of Georgia Press, 1997). On the Southern Homestead Act, see Michael L. Lanza, *Agrarianism and Reconstruction Politics: The Southern Homestead Act* (Baton Rouge: Louisiana State University Press, 1990). In the absence of land redistribution, what emerged in the South was a system of black sharecropping on white land – an arrangement that, in the context of usurious credit practices, racially discriminatory lien laws, and falling cotton prices, frequently devolved into debt peonage. See Harold D. Woodman, *New South, New Law: The Legal Foundations of Credit and Labor Relations in the Postbellum South* (Baton Rouge: Louisiana State University Press, 1995); Donald G. Nieman, *From Slavery to Sharecropping: White Land and Black Labor in the Rural South, 1865-1900* (New York: Garland, 1994); and Roger L. Ransom and Richard Sutch, *One Kind of Freedom: The Economic Consequences of Emancipation*, 2nd ed. (New York: Cambridge University Press, 2001).

141 In 1867, Thaddeus Stevens submitted H.R. 29, a bill for the permanent confiscation and redistribution of southern land. The bill, which did not pass, is reprinted in Raymond A. Winbush (ed.), *Should America Pay: Slavery and the Raging Debate on Reparations* (New York: Amistad, 2003), pp. 328-330. See also Eric Foner, "Thaddeus Stevens, Confiscation, and Reconstruction," in *Politics and Ideology in the Age of the Civil War* (New York: Oxford University Press, 1980); and Roy E. Finkenbine, "Wendell Phillips and 'The Negro's Claim': A Neglected Reparations Document," *Massachusetts Historical Review*, 7 (2005), pp. 105-119. The query of the Pennsylvania senator, Edgar Cowens, is quoted in Foner, *Reconstruction*, p. 237.

142 C. Vann Woodward, *The Strange Career of Jim Crow*, 3rd ed. (New York: Oxford University Press, 1974). On black life in the Jim Crow South, see Neil R. McMillen, *Dark Journey: Black Mississippians in the Age of Jim Crow* (Urbana: University of Illinois Press, 1989); Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Knopf, 1998); Litwack, "How Did Segregation Enforce Racial Subordination," in John David Smith (ed.), *When Did Segregation Begin: Readings* (Boston: Bedford Books, 2002); and Steven Hahn, *A Nation Under Our Feet*, op. cit.

143 On the convict lease system, see Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Matthew Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia: University of South Carolina Press, 1996); David Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996); and Karin Shapiro, *A New South Rebellion: The Battle Against Convict Labor in the Tennessee Coalfields, 1871-1896* (Chapel Hill: University of North Carolina Press, 1998).

144 The best overview of the subject is still George Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* (New York: Harper and Row, 1972). On African Americans' allegedly imminent extinction, see Frederick L. Hoffman, *Race Traits and Tendencies of the American Negro* (New York: American Economic Association, 1896). On minstrelsy, see Robert Toll, *Blackening Up: The Minstrel Show in Nineteenth-Century America* (New York: Oxford University Press, 1974). For a sampling of late nineteenth-century racist tracts, see John David Smith (ed.), *Racial Determinism and the Fear of Miscegenation, Pre-1900* (New York: Garland Publishing, 1993).

145 Jacqueline Royster (ed.), *Southern Horrors and Other Writings: The Anti-lynching Campaign of Ida B. Wells, 1892-1900* (Boston: Bedford Books, 1997). See also Edward

- Ayers, *Vengeance and Justice: Crime and Punishment in the Nineteenth-Century American South* (New York: Oxford University Press, 1984); Joel Williamson, *A Rage for Order: Black/White Relations in the American South Since Emancipation* (New York: Oxford University Press, 1986); and Williamson, "Hellhounds," in James Allen, et al. (eds.), *Without Sanctuary: Lynching Photography in America* (Santa Fe: Twin Palms, 2000). The images of *Without Sanctuary*, an exhibition of lynching photographs and postcards, can be viewed at <http://www.withoutsanctuary.org>. On the 2005 U.S. Senate apology, see above.
- 146 Quoted in Fergus M. Bordewich, *Bound for Canaan: The Underground Railroad and the War for the Soul of America* (New York: Amistad, 2005), p. 106.
- 147 See W.E.B. Du Bois, "The Freedmen's Bureau," *The Atlantic Monthly* March 1, 1901. On Lincoln's Reconstruction Proclamation, see Roy P. Basler, *The Collected Works of Abraham Lincoln* (Washington: Lincoln Sesquicentennial Commission, 1959), vol. 7, p. 55, and Michael Vorenberg, "Slavery Reparations in Theory and Practice: Lincoln's Approach," in Brian Dirck (ed.), *White Man's President: Abraham Lincoln and Race* (DeKalb: Northern Illinois University Press, forthcoming). On Freedmen's Bureau schools, see Roy G. Finkenbine, "Law, Reconstruction, and African American Education in the Post-Emancipation South," in Lawrence J. Friedman and Mark D. McGarvie (eds.), *Charity, Philanthropy, and Civility in American History* (New York: Cambridge University Press, 2003), and William S. McFeely, *Yankee Stepfather: General O.O. Howard and the Freedmen* (New Haven: Yale University Press, 1968).
- 148 On proposals for federal funding of education, see Daniel W. Crofts, "The Blair Bill and the Elections Bill: The Congressional Aftermath of Reconstruction," Ph.D. dissertation in history, Yale University, 1968.
- 149 On black education in the Jim Crow era, see James D. Anderson, *The Education of Blacks in the South, 1860-1935* (Chapel Hill: University of North Carolina Press, 1988); Donald Spivey, *Schooling for the New Slavery: Black Industrial Education, 1868-1915* (Westport: Greenwood Press, 1978); and Brooke Thomas (ed.), *Plessy v. Ferguson: A Brief History with Documents* (Boston: Bedford Books, 1997).
- 150 In a 1979 visit to Brown University, Ralph Ellison spoke of his debts to Inman Page, and on the broader significance of Page's life. See "Speech on the Dedication of a Portrait of Inman Page" and "Going to the Territory," both in John F. Callahan (ed.), *The Collected Essays of Ralph Ellison* (New York: Modern Library, 1995). Redding's brief career as a Brown professor is noted in Mitchell (ed.), *Encyclopedia Brunoniana*, p. 459.
- 151 On Henry Turner and the late nineteenth-century debate over African emigration, see Edwin S. Redkey, *Black Exodus: Black Nationalist and Back-to-Africa Movements, 1890-1910* (New Haven: Yale University Press, 1969); Redkey, *Respect Black: The Writings and Speeches of Henry McNeal Turner* (New York: Arno, 1971); and James T. Campbell, *Middle Passages: African American Journeys to Africa, 1787-2005* (New York: Penguin Press, 2006), pp. 99-135. For a modern version of the argument, see Robert Johnson Jr., "Repatriation as Reparations for Slavery and Jim-Crowism," in Brooks (ed.), *When Sorry Isn't Enough*, pp. 427-434.
- 152 For the ex-slave pension bill, see H.R. 1119, 51st Cong., 1st Sess. (1890). On House, see Mary Frances Berry, *My Face is Black is True: Callie House and the Struggle for Ex-Slave Reparations* (New York: Knopf, 2005).
- 153 *Johnson v. McAdoo*, 45 App. D.C. 440 (1917). The case eventually proceeded to the Supreme Court, which confirmed the dismissal; see *Johnson v. McAdoo*, 244 U.S. 643 (1917).
- 154 The letter to Roosevelt is cited in David Blight, "If You Don't Tell It Like It Was, It Can Never Be As It Ought To Be," unpublished address, September, 2002, available at <http://www.yale.edu/glc/events/memory.htm>.
- 155 The role of federal social welfare policy in underwriting white privilege has generated a large scholarly literature – a literature that has had little impact on American popular opinion, which continues to incline to the view that government policies differentially benefit African Americans. For a sampling, see Jacob S. Hacker, *The Divided Welfare State: The Battle Over Public and Private Social Benefits in the United States* (New York: Oxford University Press, 2002); Robert C. Lieberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge: Harvard University Press, 1998); Edwin D. Berkowitz, *America's Welfare State: From Roosevelt to Reagan* (Baltimore: Johns Hopkins University Press, 1991); Jill S. Quadagno, *The Color of Welfare: How Racism Undermined the War on Poverty* (New York: Oxford University Press, 1994); and, most recently, Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in American* (New York: Norton, 2005).
- 156 Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1985).

157 See U.S. Federal Housing Administration, *Underwriting Manual: Underwriting and Validation Procedure for Title III of the National Housing Act* (Washington: U.S. Government Printing Office, 1936). See also David M.P. Freund, *Colored Property: State Policy and White Racial Politics in the Modern American Suburb* (Chicago: University of Chicago Press, forthcoming); Kenneth T. Jackson, "Race, Ethnicity and Real Estate Appraisal: The Home Owners Loan Corporation and the Federal Housing Administration," *Journal of Urban History* 6, 4 (1980), pp. 419-452; and Jackson, *Crabgrass Frontier*, pp. 197-217. The N.A.A.C.P. study is cited in Stephen Grant Meyer, *As Long as They Don't Move Next Door: Segregation and Racial Conflict in America's Neighborhood* (Latham: Rowman and Littlefield, 2000), p. 153. For local case studies of the process, see Thomas J. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton: Princeton University Press, 1996); Robert Self, *American Babylon: Race and the Struggle for Power in Postwar Oakland* (Princeton: Princeton University Press, 2003); and Raymond A. Mohl, "Trouble in Paradise: Housing in Miami During the New Deal Era," *Prologue* 19 (1987), pp. 7-21.

158 *Report of the National Advisory Commission on Civil Disturbances* (New York: Bantam Books, 1968). For background and primary source materials relating to the Republic of New Africa, see [www.brown.edu/freedomnow](http://www.brown.edu/freedomnow). See also Raymond L. Hall, *Black Separatism in the United States* (Hanover: University Press of New England, 1978). On N'COBRA, see Adjoa A. Aiyetoro, "The National Coalition of Blacks for Reparations in America (N'COBRA): Its Creation and Contribution to the Reparations Movement," in Winbush, *Should America Pay?*, pp. 209-225.

159 The Black Manifesto is reprinted in Robert S. Lecky and H. Elliott Wright (eds.), *Black Manifesto: Religion, Racism, and Reparations* (New York: Sheed and Ward, 1969). See also James Forman, *The Making of Black Revolutionaries: A Personal Account* (New York: Macmillan, 1972), pp. 543-550.

160 *New York Times*, September 9, 1969. Boris I. Bittker, *The Case for Black Reparations* (Boston: Beacon Press, 2003, orig. pub. 1973). (The quotation is on p. 12.) For a recent restatement of Bittker's argument, see Boris I. Bittker and Roy L. Brooks, "The Constitutionality of Black Reparations," in Brooks (ed.), *When Sorry Isn't Enough*, op. cit. Other scholarly works inspired by the Black Manifesto include Daisy G. Collins, "The United States Owes Reparations to its Black Citizens," *Howard Law Journal* 16 (1970), pp. 82-117; Gary Elden, "'Forty Acres and a Mule,' with Interest: The Constitutionality of Black Capitalism, Benign School

Quotas, and other Statutory Racial Classifications," *Journal of Urban Law* 47, 3 (1970), pp. 591-652; and Robert S. Browne, "The Economic Case for Reparations to Black America," *American Economic Review* 62, 1 (1972), pp. 39-46. See also Bernard Boxhill, "The Morality of Reparations," in Barry R. Gross (ed.), *Reverse Discrimination* (Buffalo: Prometheus Books, 1977).

161 See Robert Westley, "Many Billions Gone: Is it Time to Reconsider the Case for Black Reparations?" *Boston College Law Review* 40, 1 (1998), pp. 429-476. Randall Robinson's *The Debt: What America Owes to Blacks* (New York: Dutton, 2000) offers a similar argument. See also Martha Biondi, "The Rise of the Reparations Movement," *Radical History Review* 87, 1 (2003), pp. 5-18, and Torpey, *Making Whole What Has Been Smashed*, pp. 109-132.

162 Minow, *Between Vengeance and Forgiveness*, pp. 94-95. See also Torpey, *Making Whole What Has Been Smashed*, pp. 78-106.

163 *Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians*, 2 vols. (Washington: U.S. General Printing Office, 1982). For the history of the 1988 Civil Liberties Act, see Peter Irons, *Justice at War* (New York: Oxford University Press, 1983); Roger Daniels, Sandra C. Taylor, and Harry H.L. Kitano (eds.), *Japanese Americans, from Relocation to Redress*, revised edition (Seattle: University of Washington Press, 1991); Leslie T. Hatamiya, *Righting a Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988* (Stanford: Stanford University Press, 1993); and Weiner, *Sins of the Fathers*, op. cit. *Hobri v. United States* (793 F. 2d 304 (D.C. Cir. 1986) is discussed in Brooks, *Atonement and Forgiveness*, pp. 112-119. For an assortment of relevant documents, see Brooks (ed.), *When Sorry Isn't Enough*, pp. 153-228. On the meaning of the act to former internees, see Torpey, *Making Whole What Has Been Smashed*, pp. 78-106.

164 Weiner, *Sins of the Parents*, pp. 68, 72, 82, 165-166, 190 n. 13.

165 For the text of H.R. 40 and related documents, see [http://www.house.gov/conyers/news\\_reparations.htm](http://www.house.gov/conyers/news_reparations.htm). There is today a substantial scholarly literature on the reparations issue, examining the historical, philosophical, and moral underpinnings of reparations demands in general and slavery reparations in particular. See, for example, Charles S. Maier, "Overcoming the Past? Narrative and Negotiation, Remembering, and Reparation: Issues at the Interface of History and the Law," in Torpey (ed.), *Politics and the Past*; and Thomas McCarthy, "Coming to Terms with the Past, Part II: On the Morality and Politics of Reparations for Slavery," *Political Theory* 32,5 (2004), pp. 750-772. Interest in slavery reparations is especially apparent in law reviews,

which have published a host of articles and forums examining the legal foundations of the issue, including the possible value of the Japanese American precedent. Significant works include: Mari J. Matsuda, "Looking to the Bottom: Critical Legal Studies and Reparations," *Harvard Civil Rights – Civil Liberties Law Review* 22 (1987), pp. 323-399; Rhonda V. Magee, "The Master's Tools, From the Bottom Up: Responses to African American Reparations Theory in Mainstream and Outsider Remedies Discourse," *Virginia Law Review* 79, 4 (1993), pp. 863-916; Vincene Verdun, "If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans," *Tulane Law Review* 67, 3 (1993), pp. 597-668; Eric K. Yamamoto, "Racial Reparations: Japanese American Redress and African American Claims," *Boston College Third World Law Journal* 40 (1998), pp. 477-523; Tuneen E. Chisholm, "Sweep Around Your Own Front Door: Examining the Argument for Legislative African American Reparations," *University of Pennsylvania Law Review* 147, 3 (1999), pp. 677-727; Adrienne D. Davis, "The Case for United States Reparations to African Americans," *Human Rights Briefs* 7 (2000), pp. 3-25; "Bridging the Color Line: The Power of African American Reparations to Redirect America's Future," (unsigned legal note) *Harvard Law Review* 115, 6 (2002), pp. 1689-1712; and Charles J. Ogletree, "Repairing the Past: New Efforts in the Reparations Debate," *Harvard Civil Rights – Civil Liberties Law Review* 38, 2 (2003), pp. 279-320. See also "A Dream Deferred: Comparative and Practical Considerations for the Black Reparations Movement," special issue of the *New York University Annual Survey of American Law* 58, 4 (2003). While most legal scholars writing on the subject tend to be supportive of the notion of reparations, several distinguished scholars reject it utterly; see, for example, Richard Epstein, "Against Redress," *Daedalus* 131 (2002), pp. 39-48, and Epstein, "The Case Against Black Reparations," *Boston University Law Review* 84, 5 (2004), pp. 1177-1192.

166 See *Cato v. United States*, 70 F. 3d 1103 (9th Cir. 1995); *Berry v. United States* 1994 U.S. Dist LEXIS 9665 (N.D. Cal 1994); and Brooks, *Atonement and Forgiveness*, pp. 120-123. Other cases include *Jackson v. United States*, *Lewis v. United States*, *Powell v. United States*, all filed in the Northern District of California in 1994, and *Bell v. United States*, filed in 2001 in the Northern District of Texas. All were ultimately dismissed.

167 *Farmer-Paellman v. FleetBoston Financial Corporation ... and Corporate Does Nos. 1-1000*. For the original complaint, see <http://fl1.findlaw.com/news.findlaw.com/cnn/docs/slavery/fpllmnft032602cmp.pdf>. See also Burt Neuborne, "Holocaust Reparations Litigation: Lessons for the Slavery Reparations Movement," *New York University Annual Survey of American Law* 58 (2003).

168 *in re African American Slave Descendants Litigation*, 2004 U.S. Dist. Lexis 872 (N.D. Ill. 2004). For the rehearing, see 375 F. Supp. 2d 721 (N.D. Ill. 2005).

169 See "Business, Corporate, and Slavery Era Insurance Ordinance," Municipal Code of Chicago §2-92-585 (2002). While slave-era disclosure ordinances typically operate at the municipal level, the state of California has enacted similar legislation, requiring insurance companies operating in the state to disclose any policies written on slaves, whose names are entered on a state register; see <http://www.insurance.ca.gov/0100-consumers/0300-public-programs/0200-slavery-era-insur/>.

170 For the Wachovia apology, see [http://www.wachovia.com/inside/page/0,,134\\_307%5E1191,00.html](http://www.wachovia.com/inside/page/0,,134_307%5E1191,00.html). See also Fran Spielman, "Lehman Takes a Hit Over Ties to Slavery; Firm Fails to Amend Disclosure Statement, Loses O'Hare Bond Job," *Chicago Sun-Times*, October 2, 2005.

171 See <http://www.livingchurch.org/publishertlc/viewarticle.asp?ID=2189> for an account of recent Episcopal Church resolutions.

172 Anne Farrow, Joel Lang, and Jenifer Frank, *Complicity: How the North Promoted, Prolonged, and Profited from Slavery* (New York: Ballantine, 2005). For the original special issue, see <http://www.courant.com/news/local/northeast/hc-complicity2-sp,0,7473864.special>.

173 On the Alabama apology, see <http://faculty.senate.ua.edu/04-05/mn042004.html>. On the University of North Carolina's *Unsung Founders* memorial, see <http://carolinafirst.unc.edu/seniors/2002.htm>. On Emory's Transforming Community Project, see <http://www.ethics.emory.edu/content/view/94/114/>. At least two other universities, Yale and the University of Virginia, have recently been the site of campus controversies about historical ties with slavery, but thus far neither has launched any sustained investigation. At Yale, the controversy has focused on a report, "Yale, Slavery, and Abolition," published by three doctoral students; see <http://www.yaleslavery.org/>.

174 Data from the 2000 Census is available online from the Population Resource Center at <http://www.prcdc.org/summaries/blacks/blacks.html>. See also U.S. Department of Justice, Bureau of Statistics, "Prison Statistics," available online at <http://www.ojp.usdoj.gov/bjs/prisons.htm>. The disparities within the criminal justice system are doubly significant, given felon disfranchisement policies prevailing in many states. In Rhode Island, which has one of the country's most stringent policies, over twenty percent of black

men currently lack the right to vote. See Nina Keough and Marshall Clement, *Political Punishment: The Consequences of Felon Disfranchisement for Rhode Island Communities* (Providence: Rhode Island Family Life Center, 2005). The literature on the sources of and remedies for racial disparity is voluminous and contentious, with some emphasizing the persistence of inequality and highlighting the historical and structural impediments to black progress and others emphasizing deficiencies of character and culture, as well as the influence of ill-advised government welfare policies. Important contributions to the debate over the last two decades include: William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987); Shelby Steele, *The Content of Our Character: A New Vision of Race in America* (New York: St. Martin's Press, 1990); Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge: Harvard University Press, 1993); Michael B. Katz (ed.), *The 'Underclass' Debate: Views from History* (Princeton: Princeton University Press, 1993); Melvin L. Oliver and Thomas M. Shapiro, *Black Wealth, White Wealth: A New Perspective on Racial Inequality*

(New York: Routledge, 1995); George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit from Identity Politics* (Philadelphia: Temple University Press, 1998); Dalton Conley, *Being Black, Living in the Red: Race, Wealth, and Social Policy in America* (Berkeley: University of California, 1999); Adolph Reed (ed.), *Without Justice for All: The New Liberalism and Our Retreat from Racial Equality* (Boulder: Westview Press, 1999); Joe R. Feagin, *Racist America: Roots, Current Realities, and Future Reparations* (New York: Routledge, 2000); John McWhorter, *Losing the Race: Self-Sabotage in Black America* (New York: Free Press, 2000); David O. Sears, Jim Sidanius, and Lawrence Bobo (eds.), *Racialized Politics: The Debate About Race in America* (Chicago: University of Chicago Press, 2000); Glenn Loury, *The Anatomy of Racial Inequality* (Cambridge: Harvard University Press, 2002); Michael K. Brown, et al. (eds.), *Whitewashing Race: The Myth of a Color-Blind Society* (Berkeley: University of California Press, 2003); Thomas M. Shapiro, *The Hidden Cost of Being African American: How Wealth Perpetuates Inequality* (New York: Oxford University Press, 2004); and John Hope Franklin, *Mirror to America: The Autobiography of John Hope Franklin* (New York: Farrar, Straus and Giroux, 2005).

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