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## Slavery and the Genocide Treaty

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In addition to my academic research and teaching during the past 27 years at Cal State Hayward, I have researched, lobbied government representatives, and assisted in writing international human rights law, particularly as it applies to indigenous peoples, ethnic groups, and migrant workers all over the world. Currently, I am involved in preparations for the United Nations sponsored World Conference Against Racism, to be held in Durban, South Africa, in September this year. The issue of reparations for the enslavement of Africans in the United States certainly will be central.

In looking at questions of reparations for slavery, one cannot begin with the conclusion, that is determining the remedy; rather the question arises from social movements of the aggrieved group and an objective investigation into the harm alleged must take place. Before the US Congress, there is legislation that calls for such an investigation that should be supported by all without prejudice to the conclusions and recommendations.

My own thinking is that the issue of African slavery in the United States falls within the 1948 Genocide Convention, an international treaty that has no statute of limitations and is retroactive. Here are the provisions of Genocide Convention:

Article 1. The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article 2. In the present Convention, genocide means any of the following Acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 3. The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Ordinarily, a nation-state that has committed historical acts that might be construed as constituting genocide would distance itself from former regimes that held power when the acts were committed. For instance the present Republic of Turkey eschews its responsibility for the Armenian genocide by claiming a break in the "succession of states," meaning that the acts (which in fact the contemporary government of Turkey denies as having occurred) took place under a former and now discredited regime, the Ottoman Empire that no longer exists. The contemporary United States government could also preclude charges of genocide by breaking its ties with regimes that existed before the Civil War. Although the introduction of Jim Crow laws in the former Confederate states and their legitimization by the US Supreme Court on the basis of "states rights" would possibly require severing the succession of states up to the 1954 Brown decision in the Supreme Court.

In order to implement a break in the succession of states, the United States, among other things, would have to cease honoring its "founding fathers" and the founding documents, as well as each and everyone of the administrations that maintained the legality and constitutionality of slavery. Such revisions would have to be accompanied by apologies to the descendants of the aggrieved and possibly include damage awards or reparations. Certainly, the severance of succession of states would require the revision of approved US history textbooks, national monuments, and government rhetoric in much the same manner that Germany and Austria were required to do after World War II.

In terms of reparations, the question arises as to who would receive and who would pay. That question should not arise until after an investigation that would recommend reparations. The recent example of the 1921 destruction of the African-American Greenwood district in Tulsa, Oklahoma, by a white riot that included Oklahoma National Guardsmen assisting the rioters, is a good example of procedure. After a thorough investigation, the investigative committee made its recommendations, including calling for reparations for the heirs of those who were killed or lost their property. It is now in the hands of the state legislature to determine whether to pay reparations and if so, how to do so and how much.

In the case of Nazi genocide against the Jewish people of Europe, the anti-Nazi governments of Germany have been and continue to be required to pay reparations to the state of Israel. Paying to an institutional body, such as a trusteeship for African-Americans, rather than individual, per capita payments as in the Japanese-American incarceration reparations,

would be the most likely solution regarding reparations for slavery.

However the African slave trade and enslavement of Africans began, functioned, and proceeded, the fact is that the United States was founded on not only the legalization of African slavery but also on the sanctity of "property." African slaves were by far the most valuable property at the time of the founding of the United States. For those who argue that "in those times" everyone accepted slavery, they surely cannot mean the Africans who were enslaved, nor can they ignore the fact that slavery was debated, was opposed by most Quakers, and the international slave trade had been outlawed two decades earlier by the British under pressure by the British Anti-Slavery Society.

Another indisputable fact pertinent to the Genocide Convention is that ONLY persons of African descent were enslaved in the United States. That fact does not diminish the horrors of Chinese contract laborers or Irish famine victims building canals and railroads, nor any other oppression that occurred historically. The question should not be "where will it all end?" but rather "when will it all begin?" When will we as citizens of the United States confront the fact that unpaid labor of African slaves (and the land stolen from Native Americans) produced the accumulation of capital necessary for the United States to become the richest and most powerful country in the history of humankind?

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