

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The top bulb has a dark blue cap, and the bottom bulb has a light blue cap.

WikiLeaks Document Release

<http://wikileaks.org/wiki/CRS-RS20740>

February 2, 2009

Congressional Research Service

Report RS20740

*Proposals for Reparations for African Americans: A Brief
Overview*

Garrine P. Laney, Domestic Social Policy Division

August 27, 2008

Abstract. Legislative proposals that relate to reparations for and racial segregation directed at African Americans include H.R. 40 (Conyers) and H.Res. 194 (Cohen). H.R. 40 would create a commission to study the institution of slavery and subsequent racial discrimination against African Americans and their impact on living African Americans and to recommend remedies to Congress. H.Res. 194 would apologize for the enslavement of African Americans and their racial segregation.

WikiLeaks



CRS Report for Congress

Proposals for Reparations for African Americans: A Brief Overview

Garrine P. Laney
Analyst in Social Policy
Domestic Social Policy Division

Summary

Legislative proposals that relate to reparations for and racial segregation directed at African Americans include H.R. 40 (Conyers) and H.Res. 194 (Cohen). H.R. 40 would create a commission to study the institution of slavery and subsequent racial discrimination against African Americans and their impact on living African Americans and to recommend remedies to Congress. H.Res. 194 would apologize for the enslavement of African Americans and their racial segregation.

From the Civil War to the present period, a variety of plans for compensation have been proposed. There has been some presidential involvement in the issue, congressional legislation that was either passed or considered, and organized lobbying by various groups. Lawsuits against private corporations have been filed. Pro and con arguments on reparation payments revolve primarily around the questions of who is accountable for slavery — the individual or society — and who benefitted from slavery and subsequent discrimination against African Americans. This report will be updated to reflect any legislative action.

Historical Background

Black's Dictionary of Law defines “reparation” as payment for an injury or redress for a wrong done. As strictly defined, reparation is an act of making good for any loss, damage, or injury. Proposals for compensation for the enslavement of African Americans in the United States, however, have included an apology by Congress, offers of money, education, training for employment, service to victims, and migration and colonization of African Americans to countries in Africa or elsewhere.

Plans to compensate African-American slaves in the United States and, later, their descendants were made during the Civil War and continue to be made today. The earliest attempts to provide for former slaves were rooted in the belief that they must own land to become economically independent. Despite a number of plans to provide land for

African Americans, ultimately, few of them obtained property.¹ President Abraham Lincoln was involved in several efforts to provide for former slaves. Passage of the first Confiscation Act in 1861² empowered Lincoln to seize Confederate property, including slaves, used in the rebellion against the United States; slaves who had been used in the war were freed. Lincoln, in 1861, proposed colonizing freedpeople on thousands of acres of land in Panama, but his plan did not materialize. In 1863, Lincoln established a five-man commission to determine what lands confiscated under the second Confiscation Act³ the government should use for charitable, educational, and other purposes. He instructed these commissioners to sell 20-acre lots to African-American families at \$1.25 per acre.⁴

During the Civil War, General William Tecumseh Sherman issued Special Field Order number 15 on January 16, 1865, which reserved for settlement by freedpeople the coastal islands from Charleston, South Carolina south, the abandoned rice fields on the river banks for 30 miles inland from the coast, and the country bordering the St. Johns River in Florida. Later, General Sherman provided that each family would receive 40 acres of land and would be loaned mules. The freedpeople were given “possessory titles” to farms with acreage of no more than 40 acres and were placed under military protection until they could protect themselves or until Congress would regularize their land titles. By June, 40,000 freedpeople had settled on 400,000 acres of land reserved for them.⁵ Congress passed legislation to enable former slaves to acquire land. On March 3, 1865, it passed the Freedmen’s Bureau Act⁶ to ease the transition from slavery to freedom for former slaves. The law was to last for one year after the Civil War ended. It authorized the Secretary of War to furnish food, clothing, and fuel to destitute refugees and freedpeople; it authorized the Commissioner of the Freedmen’s Bureau to lease and sell up to 40 acres of abandoned land to freedpeople; and it gave the Bureau control of all subjects relating to refugees and freedmen. The renter of land under Bureau control was given an option of purchasing his holding within three years with “such title as the United States can convey” (this language reflected the uncertain legal title that the government held on southern land).

On May 29, 1865, however, President Andrew Johnson granted amnesty to most former Confederates and restored their confiscated property, resulting in the eviction of thousands of freedpeople.⁷ Early in 1866, Congress passed a new Bureau bill (S. 60) that, among other provisions, would have required that, if any of the Sherman land was

¹ George R. Bentley, *A History of the Freedmen’s Bureau* (Philadelphia: University of Pennsylvania Press, 1955), pp. 144-146.

² Act of August 6, 1861, ch. 60; 12 Stat. 319.

³ Act of July 17, 1862, ch. 195; 12 Stat. 589. This act provided for the judicial condemnation and sale of all property of persons continuing to support the rebellion.

⁴ Vincene Verdun, “If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans,” *Tulane Law Review*, February 1993, vol. 67, no. 3, pp. 600-602.

⁵ A scholar speculates that this is the origin of the phrase “40 acres and a mule.” See Eric Foner, *Reconstruction, America’s Unfinished Revolution 1863-1877* (New York: Harper & Row Publishers, 1988), pp. 70-72; Bentley, *History of the Freedmen’s Bureau*, p. 45.

⁶ Act of March 3, 1865, ch. 90; 13 Stat. 507.

⁷ Bentley, *History of the Freedmen’s Bureau*, pp. 49, 89; Foner, *Reconstruction*, pp. 69-71.

restored to its owner, then the freedpeople living on it should be given other land to rent or buy. President Andrew Johnson vetoed the measure on the grounds that it was unnecessary, unwise, and unconstitutional.⁸ In response to the presidential veto, Congress passed a modified Freedmen's Bureau bill (H.R. 613), which Johnson again vetoed on July 16, 1866. The House and Senate overrode Johnson's veto. The new law allowed the lands of former Confederates to be returned to them. Holders of valid Sherman titles on these lands could lease 20-acre plots elsewhere, with a six-year option to purchase them.⁹

The Southern Homestead Act¹⁰ opened for settlement, in 80-acre plots, federal lands in Alabama, Arkansas, Florida, Louisiana, and Mississippi. Unfortunately, the lands generally were unfit for agriculture. Often freedpeople lacked subsistence until they could harvest a crop and the implements needed to cultivate crops. Consequently, African Americans were able to establish only about 3,000 homesteads.¹¹

Pensions. Throughout the latter half of the 19th century, Congress debated the question of what should be done for the freedpeople. Walter R. Vaughan, a white businessman from Alabama, started an ex-slave pension and bounty organization and drafted a pension bill that was introduced in the 51st Congress by Representative William J. Connell of Nebraska (H.R. 1119). This bill and others were introduced to provide pensions to ex-slaves on a sliding scale according to age, but none became law. Congress rejected these bills primarily because they were considered too expensive; they would have cost millions of dollars.¹² Generally, the bills provided that ex-slaves who were at least 70 years old would have been entitled to and would have received a lump sum of \$500 in addition to \$15 per month for the rest of their lives. Persons between the ages of 60 and 70 would have received a payment of \$300 and \$12 per month until they reached the age of 70, when they would have become entitled to receive a \$15 monthly payment. Ex-slaves between the ages of 50 and 60 would have received a \$100 payment and \$8 per month until 60 years old, when they would have received \$12 per month. All ex-slaves younger than age 50 would have received \$4 per month until 50 years old, at which time their monthly payments would increase to \$8 per month. The pension bills provided that persons supporting an aged or infirm ex-slave would be entitled to receive the monthly pension awarded to the disabled ex-slave.¹³

Another group, the National Ex-Slave and Mutual Relief Bountys [sic] Pension Association, organized in 1894 by two African Americans, Mrs. Callie D. House and the Reverend Isaiah H. Dickerson, lobbied for reparations to ex-slaves. For nearly 20 years the association was under observation by several federal agencies, despite the conclusions

⁸ Ibid., pp. 115, 118-119;

⁹ Ibid., pp. 133-135.

¹⁰ Act of June 21, 1866, ch. 127; 14 Stat. 66.

¹¹ Bentley, *History of the Freedmen's Bureau*, pp. 144-146.

¹² U.S. Congress, Senate Committee on Pensions, *Pensions for Freedmen, etc.*, report to accompany S. 1176, 56th Congress, 1st sess., S.Rept. 75 (Washington: GPO, 1900), p. 1.

¹³ See bills introduced in the following Congresses: H.R. 1119, 51st Congress; H.R. 5552, 52nd Congress; S. 1389, 53rd Congress; S. 1978, 54th Congress; S. 4718, 55th Congress; S. 1176, 56th Congress; and H.R. 11404, 57th Congress.

of the Bureau of Pensions, based on its investigations between 1897 and 1916, that the organization was not involved in illegal activities but was simply a lobbying group. Because the group's stationery included an insignia of an eagle, House and other leaders of the Association were accused of implying U.S. government endorsement of their promises to ex-slaves that they would soon receive pensions. After leaders of the organization were charged with mail fraud in 1916 by the federal district attorney at Mobile, Alabama, and were eventually convicted, the association soon died out.¹⁴

Colonization. To protect against what he called "the mongrelization" of the black and white races, in 1945 Senator Theodore Bilbo of Mississippi introduced S. 2231. This bill, to create a Bureau of Colonization, would have provided for the migration and colonization of Negroes to Liberia.¹⁵

The Contemporary Movement

Grassroots movements, some with origins as early as the 1920s, continue to seek reparations for African Americans.¹⁶ On April 26, 1969, the Interreligious Foundation for Community Organization held a National Black Economic Development Conference in Detroit to bring together diverse black leaders to discuss economic and community development programs and strategies. James Forman, in May 1969, presented the Black Manifesto, a demand of \$500 million in reparations for African Americans from white churches and synagogues for distribution as follows: \$200 million to purchase land; \$80 million to establish a skills training center, a research center, and a black college in the south; \$30 million to establish a welfare rights organization and a labor defense fund; and funds to establish an international trade association to facilitate a relationship between businesses in the United States and Africa.¹⁷ In 1967, Ray Jenkins, founder of a group called Slave Labor Annuity Pay, demanded \$40 billion in scholarships for descendants of slaves. His reasoning was "you give a person money, and they might not take care of it. But with education, you put a person in a position to make a million dollars."¹⁸

Attempts to obtain redress in court from the federal government have been unsuccessful. A 1995 suit (*Cox v. United States*) that sought \$100 million in reparations was dismissed by the U.S. Appeals Court in San Francisco. Parties filed a reparation suit against certain major corporations and state and municipal governments that they believe

¹⁴ Verdun, "Reparations to African Americans," pp. 602-603.

¹⁵ Ibid., p. 603; Sen. Theodore Bilbo, "Voluntary Resettlement of American Negroes in Africa," remarks in the Senate, *Congressional Record*, vol. 91, May 10, 1945, pp. 4399-4419.

¹⁶ Ibid., pp. 604-606. Some contemporary organizations that lobby for reparations include the Self-Determination Committee, Washington, D.C.; the African American Reparations Committee, Inc., of Boston; Afrikan Americans for Reparations — Reparations Now Committee of Washington, D.C.; the National Coalition of Blacks for Reparations (N'Cobra); the Republic of New Africa, and the Black Reparation Commission of Rockville, Maryland.

¹⁷ Verdun, "Reparations to African Americans," p. 604.

¹⁸ Lewis Beale, "Past Due," *Detroit Free Press Magazine*, January 7, 1990, p. 12.

unjustly profited from slavery.¹⁹ U.S. District Judge Charles R. Norgle, Sr., however, dismissed the suit, finding no legal merit for it. On December 13, 2006, the 7th U.S. Circuit Court of Appeals ruled the statutes of limitation had expired on the case; nevertheless, the Court ruled that certain companies could be held liable if they concealed their involvement in slave trading.²⁰

President George W. Bush does not support reparations for African Americans; he prefers to address “real problems that America faces today as a result of racial disparity” by focusing on improving education.²¹ Reportedly, President Clinton disagreed with paying reparations to African Americans, claiming too many years had passed since slavery and that current problems that stem from it need to be addressed.²² He stated that he would consider an apology to African Americans for the suffering of their ancestors, but such an apology was not issued.

Legislative Proposals

Two bills introduced in the 110th Congress would address the topics of enslavement of African Americans in the United States and the Jim Crow era of racial segregation. H.R. 40 (Conyers) would “acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States” and would create a commission to study slavery and subsequent racial discrimination against African Americans and their impact on living African Americans and to recommend appropriate remedies to Congress. The bill was referred to the House Judiciary Committee. Another proposal, H.Res. 194 (Cohen), would apologize for the enslavement and racial segregation of African Americans. On July 29, 2008, the House agreed to H.Res. 194 by voice vote.

The earliest version of a bill to establish a commission was H.R. 3745, introduced by Representative Conyers in 1989 (101st Congress). Representative Conyers has introduced bills with provisions on aspects of the reparation issue in the 102nd through the 110th Congresses, but no committee action has been taken on any of them.²³ In the 106th Congress, H.Con.Res. 356 (Hall) also was introduced, which would have called for an apology to African Americans for their ancestors’ enslavement. This bill would have provided that it is the sense of Congress that a commission be established to (1) study the

¹⁹ James Cox, “Farmer-Paellmann Not Afraid of Huge Corporations,” *USA TODAY*, February 21, 2002, at [http://www.usatoday.com/money/general/2002/02/21/slave-activist.htm]; Kelly Vlahos Beaucar, “Lawsuit Chases Companies Tied to Slavery,” *FoxNews Channel*, March 27, 2002, at [http://www.foxnews.com/story/0,2933,48781,00.html]; Dave Gibson, “Reparations Dismissed,” *American Daily News & Commentary*, February 9, 2004, at [http://www.americandaily.com/article/1215].

²⁰ Michael Higgins, “Slavery Reparation Suit Gets A Reprieve,” *Chicago Tribune*, December 14, 2006, p. 1.

²¹ Press Briefing by Ari Fleischer, April 1, 2001, at [http://www.whitehouse.gov/news/briefings/20010801.html].

²² Sonya Ross, “Clinton Considers Apology for Slavery But No Reparations, Associated Press Worldstream, June 16, 1997.

²³ The bills are H.R. 1684, 102nd Congress; H.R. 40, 103rd Congress; H.R. 891, 104th Congress; and H.R. 40, 105th Congress through the 110th Congresses.

impact of slavery and racial and economic discrimination on African Americans, (2) issue a standardized, historical curriculum on slavery in the United States for use in public schools, and (3) explore setting up a scholarship and research fund. In addition, it would have provided for the establishment of a national museum and memorial on slavery in the United States and on other notable events in African-American history. In the 107th and 108th Congresses, Representative Danny K. Davis introduced resolutions on reparations that were referred to their respective committees but saw no further action.

Pro and Con

Much discussion has occurred on the issue of reparations to African Americans for the enslavement of their ancestors in the United States and the subsequent racial and economic discrimination they have suffered. Proponents of reparations argue that

- blacks must be compensated for the robberies and exploitation that occurred during slavery, and for the lingering negative effects of slavery since the Civil War, including de jure and de facto discrimination practiced today against blacks within the private and public sectors;
- *individuals* practiced slavery but *society* perpetuated and supported the oppression of African Americans;
- many members of the larger society, regardless of whether they are or are not descendants of slave owners, benefitted and continue to benefit, especially economically, from the oppression of African Americans;
- the society guilty of establishing and protecting slavery persists today and must pay for its historical wrongs; and
- Japanese Americans' success in obtaining federal money and an apology for their internment during World War II created a precedent for compensating African Americans.²⁴

Opponents of reparations for African Americans argue that

- persons who committed wrongs against slaves have been dead for years and people living today are not responsible for those historical wrongs;
- African Americans living today have never been enslaved and, therefore, are not entitled to wages for slave labor performed by their ancestors;
- the prevalence and impact of racism in the United States today is minimal and African Americans who are victims of racism should seek redress through existing antidiscrimination laws;
- any person guilty of violating antidiscrimination laws can and should be held individually responsible;
- determining who is eligible for individual reparation payments is too difficult; and
- the economic costs of reparation payments would be too expensive.²⁵

²⁴ Verdun, "Reparations to African Americans," pp. 628-629.

²⁵ Ibid., pp. 631-644.