



Submitted via email to ohchr-registry@un.org

April 17, 2023

Re: Call for input – OHCHR report – Human Rights Council resolution 47/21

To the Office of the United Nations High Commissioner for Human Rights:

On behalf of the Santa Clara University International Human Rights Clinic in California, United States of America, we are writing to respond to the [call for inputs](#) for the preparation of the 2023 report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 47/21. These comments specifically respond to the call for “information regarding specific initiatives/processes being undertaken at the local, national, and/or regional level in relation to the four points of the Agenda toward transformative change for racial justice and equality.”

Specifically, this submission provides information on the work of California’s [Task Force to Study and Develop Reparation Proposals for African Americans](#). The Task Force has been working for a year and a half with the goal of providing the California State Legislature with comprehensive recommendations on the appropriate reparations for slavery due to African Americans living in California, and they plan to provide their final recommendations by July 1, 2023. The comments we have provided outline the scope, initial findings, and methodology used by the Task Force. We are also attaching the Task Force’s [initial report](#) with their [preliminary recommendations](#).

If you or one of your staff members would like to further discuss the information in this report, please contact us at IHRC@scu.edu.

Thank you very much for the opportunity to provide this submission and for your time and attention to this important matter.

Sincerely,

/s/ Brooke Brewer

/s/ Ariana Snyder

On behalf of
International Human Rights Clinic
Santa Clara Law
500 El Camino Real
Santa Clara, CA 95053-0424, U.S.A.
Tel: +1 (408) 554-4770
IHRC@scu.edu
<http://law.scu.edu/ihrc/>



Submission regarding the “Call for inputs for the preparation of the 2023 report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 47/21”

Prepared by the

**International Human Rights Clinic at
SANTA CLARA UNIVERSITY SCHOOL OF LAW**

**500 El Camino Real
Santa Clara, CA 95053-0424, USA**

Tel: +1 (408) 554-4770

IHRC@scu.edu

<http://law.scu.edu/ihrc/>

Drafted by

Ariana Snyder, law student,

Brooke Brewer, law student

**under the supervision of Prof. Francisco J. Rivera Juaristi, Director
and Prof. Britton Schwartz, Deputy Director**

Submitted on April 17, 2023

I. General Goals of the Task Force

In 2020, the California State Legislature passed legislation ([AB 3121](#)) establishing the Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States (Task Force or Reparations Task Force).¹ The purpose of the Task Force is: (1) to study and develop reparation proposals for African Americans; (2) to recommend appropriate ways to educate the California public of the task force's findings; and (3) to recommend appropriate remedies in consideration of the Task Force's findings.²

Task Force is assessing how the legacy of slavery harmed African Americans long after its abolition through disparities in education, criminal justice, and other important areas.³ The legislation directs the Task Force to study reparations proposals “with a special consideration for” the descendants of enslaved Black people living in California and is not meant to create a program in lieu of one from the federal government.⁴ Additionally, the legislation instructs the Task Force to propose recommendations that “comport with international standards of remedy for wrongs and injuries caused by the state, that include full reparations and special measures, as understood by various relevant international protocols, laws, and findings.”⁵

By statute, the Task Force consists of nine members.⁶ Five members are appointed by the California Governor, two members are appointed by the President pro-Tempore of the California Senate, and two members by the Speaker of the California Assembly.⁷ Task Force members are

¹ Reparations Task Force Members, State of California Department of Justice, <https://oag.ca.gov/ab3121/members>.

² *Id.*

³ Sophie Austin, California residents await key decisions by reparations task force, PBS News, Mar. 4, 2023, <https://www.pbs.org/newshour/nation/california-residents-await-key-decisions-by-reparations-task-force>.

⁴ *Id.*

⁵ California State Legislature, AB 3121, Art. 2(b)(3)(A) (2020), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3121.

⁶ Reparations Task Force Members, State of California Department of Justice, <https://oag.ca.gov/ab3121/members>.

⁷ *Id.*

drawn from diverse backgrounds to represent the interests of communities of color throughout the state, have experience working to implement racial justice reform, and, to the extent possible, represent geographically diverse areas of the state.⁸ The Task Force may hold hearings, hear witness testimony, and request the production of evidence.⁹

AB 3121 charges the Reparations Task Force with studying the institution of slavery and its lingering negative effects on living African Americans, including descendants of persons enslaved in the United States, and on society.¹⁰ Additionally, the Task Force will recommend appropriate remedies of compensation, rehabilitation, and restitution for African Americans, with special consideration for descendants of persons enslaved in the United States.¹¹

The Task Force has held multiple public meetings in areas across the state to receive witness testimony and discuss important questions that it needs to resolve for its recommendations.¹² As an example, one important question that it has discussed at several meetings is how to define the appropriate time frames for each of the five harms the Task Force's recommendations will address.¹³ The five harms that the Task Force focuses on are 1) housing discrimination and homelessness, 2) over-policing and mass incarceration, 3) unjust property takings, 4) health harms, and 5) devaluation of Black-owned businesses. Economists are preparing estimates to help quantify the extent of discriminatory policies against Black Californians for each of the five harms.¹⁴ The Task Force previously proposed the following time frames for the five harms, which begin either when the state was founded or when certain discriminatory policies

⁸ *Id.*

⁹ *Id.*

¹⁰ AB 3121: Task Force to Study and Develop Reparation Proposals for African Americans, State of California Department of Justice, <https://oag.ca.gov/ab3121>.

¹¹ *Id.*

¹² Sophie Austin, California residents await key decisions by reparations task force, PBS News, Mar. 4, 2023, <https://www.pbs.org/newshour/nation/california-residents-await-key-decisions-by-reparations-task-force>.

¹³ *Id.*

¹⁴ *Id.*

were implemented: 1933 to 1977 for housing discrimination and homelessness, 1970 to 2020 for over-policing and mass incarceration, 1850 to 2020 for unjust property takings, 1900 to 2020 for health harms, and 1850 to 2020 for devaluation of Black-owned businesses.¹⁵ This is one example of the work done by the Task Force during the course of its mandate, but it has continued to collect evidence, witness testimony, and discuss other key questions over the course of multiple public meetings since it began operating.

II. Key Findings of the Task Force

On June 1, 2022, the Task Force issued its initial report with key findings and preliminary recommendations to the California State Legislature.¹⁶ The report examines the history of slavery and racial discrimination in the United States and California and identifies twelve areas where African Americans have experienced significant harms and continuing disparities that need to be addressed through reparations in California. Those twelve areas are: 1) enslavement, 2) racial terror, 3) political disenfranchisement, 4) housing segregation, 5) separate and unequal education, 6) racism in environment and infrastructure, 7) pathologizing the Black family, 8) control over creative cultural and intellectual life, 9) stolen labor and hindered opportunity, 10) an unjust legal system, 11) mental and physical harm and neglect, and 12) the wealth gap.¹⁷ In the initial report, the Task Force also made an extensive set of key findings, which are briefly summarized here.

The Task Force's key findings are grounded in a critical understanding of the history of slavery and institutionalized racial discrimination in the United States, summarized as follows:

Beginning in colonial times and continuing throughout most of the country's history, governments at all levels in the United States have adopted and enshrined a system of

¹⁵ *Id.*

¹⁶ Reparations Task Force, Reparations Reports, State of California Department of Justice, <https://oag.ca.gov/ab3121/reports>.

¹⁷ *Id.*

dehumanization and exploitation of people of African descent.¹⁸ Racial violence against Black Californians began during slavery and continued through the 1920s when groups such as the Ku Klux Klan (which promoted continued racial segregation through violence and other means) joined local governments and police departments.¹⁹ The racial violence peaked after World War II when Black Americans attempted to move into white neighborhoods throughout California.²⁰

After the Civil War, racist lawmakers elected from southern states blocked hundreds of federal civil rights laws and edited other important legislation to exclude or discriminate against people of African descent.²¹ This practice began at the federal level and was very harmful to Black Californians when coupled with discrimination at the state and local levels.²²

The historical criminalization of African Americans in the United States and in California has been an enduring badge of slavery.²³ The social control of Black Californians has contributed to the over-policing of Black neighborhoods, the school-to-prison pipeline, and mass incarceration of African Americans.²⁴ The criminal justice system throughout the United States and in California physically harms, imprisons, and kills African Americans more than other racial groups relative to their percentage of the population.²⁵

Government actors worked with private individuals to actively segregate America into Black and white neighborhoods.²⁶ This manifested itself in California through discriminatory federal housing policies, zoning ordinances, decisions on where to build schools, and

¹⁸ AB 3121: Task Force to Study and Develop Reparation Proposals for African Americans, State of California Department of Justice, <https://oag.ca.gov/ab3121>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Reparations Task Force, Reparations Reports, State of California Department of Justice, <https://oag.ca.gov/ab3121/reports>.

discriminatory federal mortgage policies such as redlining.²⁷ In addition, the federal government funded urban projects in California that destroyed Black homes and communities through park and highway construction.²⁸

Black students in California have attended schools with less funding and resources than white students. Even after the U.S. Supreme Court held “separate but equal” to be unconstitutional, children went to the school in their neighborhoods, so education segregation was further entrenched by residential segregation.²⁹ Today, California is the sixth most segregated state in the country for Black students, who attend under-resourced schools.³⁰

Black Californians are more likely to face worse quality housing in polluted neighborhoods with inadequate infrastructure.³¹ Further, government financial assistance programs and policies have historically excluded African Americans from receiving benefits.³² African Americans face employment discrimination throughout the United States and in California.³³ Federal, state, and local government actions in California have directly segregated and discriminated against African Americans in the workplace.³⁴

III. Preliminary Recommendations of the Task Force

In its initial report, the Task Force also made a series of preliminary recommendations for reparations needed to address the twelve areas outlined above. They include legal measures to end the remnants of legalized slavery in California, policy reforms to enhance police accountability for acts of racial terror, official apologies and other expressive acts to acknowledge the harms suffered

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

by African Americans, the creation of a truth and reconciliation commission, monetary reparations and grants to replace property and businesses lost as a result of racial terror, measures to reverse policies that have resulted in disenfranchisement of Black voters, the identification and elimination of discriminatory policies in housing, and a full range of additional measures targeted to the specific causes and consequences of the twelve areas that the Task Force has analyzed.³⁵

The attached initial report provides the full analysis of the twelve areas, list of key findings, and all of the Task Force's preliminary recommendations.

³⁵ *Id.*