

Panel Discussion

Are Reparations Possible? Lessons to the United States from South Africa

The Honorable Richard Goldstone, Dr. Lewis Gordon, Dr. Alecia Anderson (moderator)*

The Honorable Richard Goldstone is a former justice of South Africa's Constitutional Court. He was instrumental in several key decisions that worked to unravel South Africa's system of apartheid. He worked closely with Nelson Mandela during the transition from apartheid and headed the Goldstone Commission, which was created to investigate ongoing police violence. Goldstone also served as the first Chief Prosecutor of the United Nations International Criminal Tribunal for the former Yugoslavia and for Rwanda, prosecuting numerous war crimes. Goldstone has received the International Human Rights Award of the American Bar Association, the Thomas J. Dodd Prize in International Justice and Human Rights, and the MacArthur Award for International Justice.

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* Kendall Panas, Schwalb Center staff associate, wrote the panel discussion transcript.

Introduction: On September 25, 2019, the Honorable Richard Goldstone joined Dr. Lewis Gordon for a conversation about reparations at the University of Nebraska at Omaha (UNO). The public discussion was offered as part of a series of events for Human Rights Week. It was co-sponsored by the Goldstein Community Chair for Human Rights, the Schwalb Center for Israel and Jewish Studies, and the UNO Department of Black Studies. Goldstone and Gordon were brought to the University of Nebraska at Omaha by the Leonard and Shirley Goldstein Center for Human Rights.

Alecia Anderson (AA): Before beginning, I want to thank the Director of the Goldstein Center for Human Rights, Dr. Curtis Hutt, for bringing our panelists to the University of Nebraska at Omaha. All right, so everyone, welcome. We have some already prepared discussion questions to kind of facilitate the conversation. And then if we have time at the end, we'll have a few minutes available for audience questions as well. All right, so to kick us off, first of all, thank you both for being here. But I thought, if we're gonna talk about if reparations are possible, we should probably get on the same page about what reparations involve. So I'd like you both to start by describing your conceptualization of reparations. Who wants to go first?

[A moment's pause]

Lewis Gordon (LG): Well, I guess that means me. Well first, *shalom, as-salamu alaykum, halito*, and, as I'm from Jamaica—how you keepin'? And I know there're some of you a little farther back. So when I speak, I'll stand up then I'll sit down, okay? That way you in the back can see and hear me better. It would be wonderful if the audience gets some time, get time to speak, so I'm not going to speak very long. So the short of it is that there is a distinction between what you hear as reparations and, if you reflect upon it, what it means. Already your intuition tells you there's in it the word 'repair'. So it means you have to fix something that was broken or fix a wrong. Now, that becomes very complicated of course if you're going to repair something. That means there was a point at which it was well functioning. And there are those who have argued—for instance, one of my colleagues in South Africa, Mogobe Ramosa, points out that many people forget that the context we're talking about is harm done to human beings. That means we need to remember that it's human beings who are degraded; their humanity is challenged. So, if we're at all going to

begin to talk about the question of reparations, we need to talk about re-humanization. To bring back the kind of dignity, freedom, and understanding that are involved in living a human life. Now there are unfortunately ways, as we know, in which words get twisted. We are here in the United States of America where people always talk about freedom while developing techniques to get rid of people's freedoms. And in fact, the people who are most actively attacking freedom love to use the word 'freedom'. What we'll learn is that in the history of reparations the actual notion of reparations was twisted in such a way that it has helped mostly those who committed harm. But we'll come to that since there's more time to speak. And you could ask me to elaborate. Thank you.

Richard Goldstone (RG): For me, certainly as a South African, reparations covers a fairly wide field. In particular, because of the experience we had with our Truth and Reconciliation Commission, reparations covers acknowledging what happened to the victims. This is really the first call that victims have, is for public acknowledgement and recognition, which is important for the restoration of their dignity. South Africa came to the end of a sordid three and a half centuries of racial discrimination and oppression. Way back in 1973, the United Nations General Assembly passed a treaty that declared apartheid in South Africa to be a crime against humanity. And of course, it was. Millions and millions of our people, because of the color of their skin, were treated as third-rate citizens, not even second-rate citizens. They lived in penury, they were discriminated against, and many of them were murdered, and many of them were tortured.

So there was a lot to be repaired when apartheid came to an end in 1994. The first democratic government in South Africa, the administration of President Nelson Mandela, was really faced with a choice of doing one of three things. The one was to allow for collective amnesia, forgetting about the past. The other extreme was prosecuting the apartheid leaders and especially those of the police and the army who were responsible for the most serious human rights violations. And, the third was really a compromise. That was the Truth and Reconciliation Commission. It held hearings over roughly a two-year period in which the testimony of over 21,000 victims was submitted. Around the country, over 2,000 sittings of committees of the Truth and Reconciliation Commission were held, and South Africans, white South Africans in particular, were forced, for many of them for the first time, to recognize, accept and acknowledge the crimes for which they bore moral responsibility. Because there were no South Africans who didn't know what was going on.

So they were all active, active bystanders at best, and at worst, implementers of the policy of apartheid.

So reparations certainly covers that acknowledgement. It also includes financial reparations. There's also the question of memorialization, including, for example, the change of street names or the removal of statues. There is a Rhodes Must Fall movement in South Africa that began at the University of Cape Town, where student activists insisted that the statue of Cecil John Rhodes, who was a colonial leader, a mining magnate, be removed from the campus. The university authorities were eventually left with little choice but to remove the statue. So reparations certainly, in my book, covers a whole gamut of finding appropriate means to make good to the victims for their suffering, and the suffering of their parents and grandparents.

AA: Okay, so I wanted to piggyback I think off of what Justice Goldstone just said here. And then just ask what are the strengths and weaknesses that you both see in the Truth and Reconciliation in South Africa, and other historical contexts of reparations. What can the U.S. take from those examples historically?

RG: Well, first of all, one has to recognize the differences between the experience of South Africa and the United States. Every situation of mass victimization is different if not unique. The situation that we faced in South Africa is in some ways the converse of the situation faced in the United States. With the possible exception of Malaysia, South Africa is the only country, as far as I am aware, where the oppressed constituted the majority of the people. In other countries where there's been racism and victimization, it's been against a minority. In some ways it is easier for a previously victimized majority to recover than it is for a formerly victimized minority. We have a formerly oppressed majority that is now running the country. That's a difference that has to be recognized. And to an extent it has to be grappled with. The second difference is that the first democratic South African parliament, and that was during the early administration of Nelson Mandela, decided that, in the investigation of past human rights violations, South Africa could not go back further than some 36 years. To go back further was just too complicated—memories fail and victims and witnesses have passed on. What the Truth and Reconciliation Commission did was to look at serious human rights violations that were committed during the last three and a half decades of apartheid. It didn't go back further. So it never went back to slavery,

which was practiced in the Cape Colony, in particular after the Dutch arrived in the Cape in 1652. I recall that during the last apartheid government of President F. W. De Klerk, the prime minister of the Netherlands, Ruud Lubbers, made the first ever state visit by a Dutch leader to South Africa. It was in about February 1994. At the cocktail reception, which my wife and I attended in Cape Town, President De Klerk said to the Dutch prime minister, that in three months from then, we will come to an end in South Africa of some three and a half centuries of racial oppression. “Which of course, Mr. Prime Minister, began when the Dutch arrived in the Cape in 1652!” And the look of bemusement on the face of Prime Minister Lubbers was striking. So, these differences must be recognized and acknowledged.

LG: Well, this time I’ll also add *buenos dias*. The reason earlier when I stood I said “*halito*” is because it’s one of the indigenous languages [Choktaw] of this country, in which I know how to say hi or hello. That relates to this question in a rather profound way because some of these issues we talk about as if they’re fixed. But if we don’t deal with the conditions that produce these forms of oppression, they take additional forms. We know right now I think the important question that is raised is about the kind of collective responsibilities we have when they recur. I travel across this country all the time. It is profound, particularly in places of transportation, the [now] near absence of Latinx peoples. This is really crucial, because we’re living in a period right now in this country where there is the production of policies that will place this entire society on the levels of accountability where we—if justice is really done—will be dealing with a prosecutor such as our esteemed guest [turning to the Honorable Richard Goldstone]. Now I bring this up because, although there are differences [with past instances of crimes against humanity], there are actually many similarities here. The first one you should bear in mind, as we’re bringing up the South African example, is that the architects, the model the architects were using for the oppression that was unleashed there, was this country [the USA]. Okay? This was because they saw the eradication of the majority population, the indigenous peoples of this country, as an *aspiration* for that country. And it was not just here; there are other countries that adopted such policies. There are people who studied what Andrew Jackson was doing in this country in the nineteenth century. There are people who studied how racialization actually made certain things effective. And this is what makes the South African situation a rather interesting one. Not only South Africa—but also all over the African continent—

because on the African continent there is the racial imposition that hides the indigenous dimension.

In the United States right now, the racial part, which is predominantly looked at in terms of black Americans—and we're now seeing it in terms of Latinx Americans—gives the sense that it is done to people from elsewhere. However, where do you go when you are racialized and you are Xhosa (that's what we say in South Africa [referring to the clicking sound in the name])? Or you are Wolof in Senegal?

You say, "Well, I've been racialized, I've been oppressed, but this is also my home."

You see? So those are some of the additional dynamics. But the complicated part that is also related to it—and I think this is some of what has been hinted at—is that part of the repair is to bring things out into the open. But there's a tendency that makes this challenging when it comes to actual commitments to truth. Actual commitments to truth tend to come from those who are actually at the bottom of society. That is because they don't have access to the mechanisms of power that could protect them. They have to rely more on truth. Forces at the top thus often need to rewrite history in order to make their daily lives morally palatable.

Just to give you a sense—and again, I would like to hear from you all—but to give you a sense, just let me give you an allegory for this that is also a fact. Most historians who study enslavement, indigenous genocide, and colonialism, the versions they publish in their books are heavily sterilized and mediated because of two primary forces. The first one is professionalization. They won't be taken seriously. Now when you read these things, they're pretty bad. So if, to know that what you're receiving is the sterilized version, it should make you really take pause. The second one is more complicated. It's not simply about nefarious forces that would like to have a misrepresentation of history. There is also, for the person who is studying it, the trauma of studying it. Because these historians—and people who are not historians who go through those archives—have to develop a day-to-day relationship as human beings with empathy steeped in levels of cruelty that would recoil anybody with any ethical sensibility. As a consequence, almost everybody who has studied those phenomena has had to go into therapy. Everyone. From Black historians [such as Sir Hilary Beckles] to Winthrop Jordan, a white historian. All of them had to do this. So part of the difficulty is that we are trying to address issues that are not simply difficult for the people on whom they were imposed. It is also difficult to try to accept the

idea that you are linked to the people who committed those atrocities. It takes extraordinary courage to say this is humanity's deeds; this is a responsibility that I as a human being have to take on as well. And so, the question of the success or the failure is connected to the fact that we have to take seriously that we're dealing with human phenomena, okay? And that means that it's going to have its imperfections. However, one of the things that's very important for every act—that is, you try to make a better world—is that what maintains an unjust, cruel world is the belief that nobody will act. So as I see it, it may not be perfect, but the very act of demonstrating that people will do something sets the conditions for others to do more. And I'll stop there.

AA: All right. So okay, I'll keep going with that theme of, you know, responsibility, taking responsibility, and ask in the U.S. specifically, when it comes to reparations, who is responsible? So is it the responsibility of the government, corporations, is this an individual effort? So what are your thoughts on that? Whose responsibility is it for reparations?

LG: Oh, you want me to go first?

RG: I think so.

LG: Okay. You know, you asked the question that I'm actually writing on right now. I'm writing a book—I think you'll love this title—it's called "Fear of Black Consciousness." It relates to South Africa in many ways. In South Africa, there's a lot of fear of Black consciousness. There's a certain point as I go through that reflection that I have to deal with this question. And here is the thing. Whenever people are doing things that are uncomfortable, there's a very important fallacy to learn. Well, there are several fallacies. There is a red herring, where you bring up something that is irrelevant and get people off track. But there is also a fallacy called straw man. That fallacy is where you pick something so ridiculous and easy to knock down that it helps you avoid getting at the real question. And here is the thing that many people don't realize. In the United States, there is a tendency—but not just here, it happens in the UK, it happens in South Africa, it happens all across the globe, in Canada, in Australia, for instance—to moralize the issue so much that we fail to understand that for anything to be done, we have to recognize the political dimensions of the issue. This is difficult, because when you say the word 'responsibility',

people immediately think about moral responsibility. If we think about it, however, if we think about the histories of when actual reparations were conducted, the people who received reparations throughout history for the most part—it's not exclusively this way, but for the most part, and I leave it open to how you define it, whether it's in financial terms, structural terms, you know, terms governing policies, etc.—the people who have really received reparations, most have actually been the people from the dominating groups that oppress the other groups. You know that slave masters received reparations. They got compensated for their "property." But no enslaved people got compensated for their labor or the theft of their embodied property. If you're going to have that capital, that's going to put you in a position actually to build certain structures. If you think about the question of wealth, for instance, in the world right now, it's not that every individual white person is rich, but nobody can deny that there is structural white wealth. Early capitalists didn't give a damn about individual white people, nor others black or brown. But at a certain point in history, in the history of this development of white wealth, things emerged such as today when you study "foreign relations," you know what it used to be called? "Race relations." That's because there was a global, concerted effort to build a so-called Manifest Destiny. It was to create the idea, through legal and military means, of structural white wealth. And this involved many, many efforts that, when communities of color attempted access to them, were blocked.

Many of you right now, when you think of public universities, you think about how much you're going to pay for them. When they were all white, they were free. If people have access to free education, finishing their studies without debt, et cetera, they begin with structural wealth. But how did that happen? Who paid those white masters? Who paid for all those things? And the answer for that of course is *the people*. It's going to be, you know; there were free blacks whose revenue, whose tax revenue, went to paying white slave masters. If you're talking about everything that produced, whether it's in South Africa or Australia—structural white wealth—it was excluding the indigenous and the black populations. So the straw man is to make it seem like you individually pay and others don't. No. A political issue is a societal responsibility, regardless of whether you're a citizen, a permanent resident, anybody within that jurisdiction in some way pays—whether it's materially, socially, or in other forms—for instance, politically—for such debts. So it is this ultimately—even though we may couch it in terms of this racial issue of white and black: when things are political, the responsibility always takes the form of *us*. It means

anybody, including—you all know this—if you're a recent white immigrant to the U.S., you say, "Well, I didn't do it. I didn't enslave blacks. What did I do to deal with these things?"

The simple response is: "You choose to live in this country, don't you? If you're gonna do it, you're gonna take on these debts."

If you move to France, you know what you're going to do? Take on its historical debts. If we globalize it, this is why we have at the level of the World Court a question of a crime against humanity, because if the impact is against humanity, it's humanity that holds the global responsibility to take on that debt and respond to it. And so we have got to get rid of the straw man part, understand the political ramifications of these responsibilities, and use our creativity to work out the specifics. I'll stop there.

RG: I think the politics is all important. And obviously, without the politics, these things don't happen. And this was the dilemma too that faced Nelson Mandela. South Africa was on a certain road to a bloodbath in the 1980s. It was to the credit of our last apartheid leader, De Klerk, that he saw that the writing was on the wall. His father had been one of the architects of the apartheid system. Those leaders left it to the next generation to deal with the inevitable, looming existential problems. But De Klerk, to his credit, decided that the time had come to bring apartheid to an end. I remember watching the television news in February 1990, when De Klerk announced the end of apartheid. And announced that Nelson Mandela and his comrades were being freed from prison. Their freedom movements were being unbanned. It took the country by complete surprise. In fact, it was said, and I believe it, that some of the members of De Klerk's cabinet were not aware until the day of the announcement that this was going to happen. And the politics was then interesting. De Klerk, I have no doubt, had intended that the transition from apartheid to democracy would take 15 years, maybe 20 years, there was no hurry. The longer the white minority could stay in government, the better for them. But Nelson Mandela, in particular, was too shrewd a leader to allow that to happen. And what De Klerk thought might take 15 or 20 years took four years. It took from 1990 to 1994 to end apartheid and to embark on a constitutional democracy in April of 1994.

I had the privilege of spending many Sunday evenings chatting to Nelson Mandela. He was lonely and I was investigating violence during our transition and he used to invite me on a Sunday evening to come and spend a couple of hours with him, beginning

with the eight o'clock TV news and then chatting about many topics. And I know from those personal discussions that he was initially torn about the Truth and Reconciliation Commission. It was politically inviting to take De Klerk by the hand and walk together into a golden sunrise of the post-apartheid system. But to do that he realized, would have been an amoral abdication of leadership. The victims of apartheid had to be recognized. Compromises were necessary. The Truth and Reconciliation Commission also looked into violence committed against white people that accompanied the last years of apartheid. As I indicated earlier, the Truth and Reconciliation Commission was in fact a compromise between doing nothing and Nuremberg style prosecutions. There were very few prosecutions. What is interesting, and I think relevant, possibly for the United States, is that now 25 years after the end of apartheid, activists are now wanting the investigations into murder by police of deceased activists to be reopened. It's interesting that this didn't happen in 1994 when apartheid came to an end. It's happening now, 25 years later. The lesson is that the longer you leave unrecognized and unacknowledged the indignities and the victimization of the past, the longer it's going to take to come to grips with these problems. They have to be tackled sooner rather than later. And the later, the more difficult. As I said, in South Africa it was decided not to go back more than about 36 years, in looking at the victimization. What interests me, and I'd love to hear the reason for it, is why the question of reparations has become a new, live issue, or an enlivened issue in the United States. Certainly I've been visiting this country for the last 40 years, and I don't believe there's been a time when this issue has become more vocal in society.

Why? Why has it taken all of these years? Why has it taken South Africa 25 years to come to grips with dishonest inquests that were held into the deaths of people who were tortured to death in a police station in the center of Johannesburg? What is it that causes this history to just keep boiling and suddenly percolate out of the top? How does one deal with that? And that's the situation we still face in South Africa, where the sins of the past still haven't been sufficiently addressed.

The financial imbalances in our country are stark. I was at a conference last week on gender violence and gender discrimination. And I was shocked to find that 80% of the CEOs of South African companies are still white. And 3% are women. So we have imbalances that 25 years of post-apartheid government has not really ameliorated.

AA: Yes. We are, it's coming up. Okay, so just want to go back quickly to the victims, there seems to be a theme here that we didn't do right by the victims. So in the U.S., there's at least been a criticism that we can't do that because of lack of documentation. And I wonder what your comments would be in regard to Black Americans, Native Americans or other communities of color or disenfranchised people here in the U.S. historically when we think about documentation being the reason why we don't do reparations.

LG: Well there are several things. The first one I have to say straight out is that we're dealing with problems in a human world that requires human solutions and we're intelligent enough to find ways to figure them out. It's bad faith when people make those kinds of arguments. Connected to some of the remarks that we were just making, first, if you look at the history of the discussion of reparations, actually it recurs exactly in the same way as what is happening in South Africa. All you have to do is look back at Reconstruction. I wrote a piece when Trump was elected in which I pointed out its connection to Reconstruction because it's dialectical. Every moment there is a movement forward, there are forces committed to pushing things backward. So, as you know, Reconstruction was an opportunity for the United States actually to be a country premised on freedom. And in fact, it is unbelievable to witness what those just freed, I mean legally freed enslaved people, were able to achieve within 10 years, okay? It's extraordinary when one tries to imagine, even if you look at many indigenous communities willing to build on their horrible circumstances. Despite those achievements, they were massacred, ripped apart.

I was just in Oklahoma City. We already know the history there. The folks keep rebuilding, but they were ripped apart and with governing resources helping the decimators of those movements. And as we know, that culminated in the structure of Jim Crow—legalized segregation in the United States, which was the model, because “apartheid” really is another way of saying “apartness,” “segregation.” And then when there were other moments of what we can call “progress” again—and among those were the New Deal and lots of other expectations. Eleanor Roosevelt, as many of you know, had a position about radicalized equality. She actually argued, for instance, for the integration of the American military and in addition to that there were efforts that brought many white students, many who were white activists, into the South and they began to realize that the blacks who were teaching them were actually far more qualified to be teaching in the dominant white universities from which they came and those white students were actually for the first time

getting an education from those people who were supposedly from inferior colleges. That precipitated their involvement in the civil rights movement. The backlash to the civil rights movement was neoliberalism and neoconservatism. The latter was the Regan period.

So we are living right now in the aftermath of what the Obama administration represented—although it was bound to neoliberalism—a form of moving forward. We're seeing right now a kind of nostalgia for the period of turning back from Reconstruction. In South Africa, the United States also participated in trying to negotiate what post-apartheid South Africa should look like. The investment there was to radicalize privatization. Now here's the thing. White South Africans benefited from a social welfare state. You all have heard this, right? As there is an election coming up, all the critical talk about Bernie Sanders is followed by the claim that social welfare states don't work. Every time I hear this, I crack up. I always say, "Actually there is irrefutable proof that social welfare states work." Critics always ask me, what it is, and I respond, "White wealth." White wealth is created from social welfare mechanisms to make sure whites have superior subsistence to other groups. In fact, in China people watched this development and a lot of the people advising the transformation of China were actually Caribbean intellectuals who observed this, because at least in China the whole point for the Chinese people was not to say, "How do we in China create white wealth?" That's an oxymoron. It was instead, "How do we try to get a billion people out of poverty?" That required a different mechanism. And so if we understand that, the problem was that black South Africans were told the vote alone would make their lives better. But the imperative was a structural system that was designed to make their lives worse. Realizing that, there's a point when you say, "I've been hoodwinked!" And now that they won the vote, they're thinking through reparations. Similarly, there were people who said, "You've got Obama as president!" People said, "Yes!" People said yes so much with such pride and joy that they showed up and stood in frigid weather for six hours—no, some cases it was ten hours!—just to see the impossible: a black American president. And then afterward, they looked around at the radicalization of inequalities that followed and said, "We were hoodwinked."

And so what reparations are about—and this is connected to the acknowledgement argument—is the acknowledgment that although there was a moral effort, there is a fact of radicalized inequalities that need to be addressed, you see? And so if we connect it in that way, if we're going to address it, remember what I said before when I said "us." If it's about repair, we need to link it to the understanding of a societal repair. If we're going to take

seriously that radicalized inequalities are wrong, then it's not simply enough to ask, "How do you write a paycheck to an individual?" That's because, you see, the individuals, the peoples we're talking about, are intimately linked to the very question of the structure of the society. And ultimately what their plight raises is the question we all have to ask, which is what kind of society we want to live in. You want to effect reparations, make the United States a better society.

Okay, I'll stop.

RG: Your remarks bring back to me one thought and that is people, all people, all of us, act in what we think is our self-interest. We often get ourselves into trouble because we acted in what we thought was in our self-interest. And good leaders set an agenda for interests that are really, in the interests of the citizens. In South Africa today, and since 1994, and I'm sure you'll agree with me, Lewis, from your travels in South Africa, it's almost impossible to find any white South African who didn't oppose apartheid. That is now their "new" self-interest. In the United States (and I plead guilty to generalizing), the overwhelming majority of white Americans do not acknowledge that the legacy of slavery and entrenched racial oppression remains relevant today. If asked whether any acknowledgment is required, they refer to the history books. "Its all there," they say. In South Africa, I am beginning to hear well-meaning whites complain that affirmative action programs are no longer required 25 years after the end of apartheid. The Constitution calls for a color-blind community. But, how can the sins of racism be acknowledged and remedies introduced if color and gender are not taken into account. It is not racist to use the tools of discrimination to make good the sins of the past that were predicated on them. That is true both in the United States and South Africa.

AA: And then everyone just kind of may come up. Say your name please.

Questioner 1: My name's William. Earlier you said, "People are scared of black consciousness." I was wondering what you meant by that?

Questioner 2, Jakeem Fox: My question was we talk a lot about reparations for black people specifically as if there aren't other examples of reparations in America for other

racial groups. I was wondering what you all thought about why black people specifically in America haven't received reparations.

Questioner 3, Terri Crawford: This makes the request to go to the floor, to have a conversation about whether or not reparations are even possible. Not to establish how that happens or an amount, or any of that. Just gather the information to see whether or not there are some practical applications of reparations for black Americans. That has happened for at least three decades. I think the reason why it is now re-percolating is because of our current political atmosphere. It has to be because we are having these open conversations, be good, bad, or ugly, about white supremacy and our ugly racial history in the United States. So I'd be interested in both of you talking about how that differs, as to how it happened with apartheid and why we can't have that conversation about this being a crime against humanity and not just a crime against black people in the United States. It's a crime against humanity and we should treat as such, and I think for those that feel as though my ancestors participated in that atrocity, I don't want to take responsibility for that, but I think if we couch it in that humanity conversation, that it makes it more palatable for everyone. I don't care about it being palatable; I just want to have the discussion. If that's what it takes to bring everyone into the fold, then let's do it.

AA: Thank you for all the questions. We are really running low on time, but I would like to give both our guests the opportunity to comment as much as they can on the questions that were asked.

RG: Well we could spend another hour, if we paid due regard to the wonderful questions and comments that have been made. Let me restrict myself to just a few as it is impossible to deal with the whole gamut of questions that were asked. One is that I don't believe that you could have a Truth and Reconciliation Commission in the South African type situation, in 2019 or 2020. We were lucky that it was in 1995 and international criminal law was not as advanced as it is today. I doubt whether many countries would tolerate crimes against humanity being dealt with in 2019 by a Truth and Reconciliation Commission. There would be widespread demands for prosecutions—for full justice. People forget the opposition to the Truth and Reconciliation Commission by South Africans from all sides. White South Africans did not wish to have the skeletons leave the cupboards and many

black South Africans, the victims, wanted full justice. They did not accept that amnesties were justifiable or fair to the victims. Nelson Mandela waited for almost a year before introducing legislation to set up the Truth and Reconciliation Commission. He was worried that there could be an attempted coup instigated from the higher ranks of the army and police. For good reason, they feared the truth becoming public. Mandela waited until his own people were in charge of the army and police before introducing the Truth and Reconciliation Commission legislation. So it may not be the solution in a country like Syria or Yemen, where the most terrible human rights violations including genocide and crimes against humanity have been and are being committed as we talk today. I don't believe that a Truth and Reconciliation Commission would find favor with the international community and or the human rights community. Of course, apartheid did not remotely reach the level of genocide. There was no intention on the part of the apartheid leaders to wipe out the black majority in South Africa. That was not the agenda. They wanted to keep the majority oppressed and to enable white supremacy to continue for as long as possible. The other point I would make, and it's again too often forgotten. And that is the important role that Americans played in helping bring apartheid to an end. Civil society in particular. I remember the visits during the last 10 years of apartheid, particularly from African American lawyers and judges who visited South Africa. Thelton Henderson, and Nate Jones, and Leon Higginbotham, who really made black lawyers in South Africa proud. They set an example of what black lawyers could do, and could achieve. In South Africa that sort of leadership needed to be demonstrated. So, South Africa certainly owes a great deal to the American civil rights movement in general and to some African American leaders in particular.

I agree fully with the suggestion that in any society which experienced serious human rights violations there should be discussion of the affects of those violations and whether reparations of any kind are appropriate.

LG: There's a long history of black or African American jurists, activists, and scholars who have articulated this as a human rights issue. You could go back to William Paterson, Paul Robeson, and W.E.B Du Bois, who had petitioned for the Unites States to be brought up on human rights violations before the UN, and a call of genocidal attacks against the indigenous peoples and the peoples of African descent. Malcolm X, many of you know, was very critical of the civil rights movement because he said it should be a human rights

movement. And there are many examples of those, so yes. The first thing is that we are having the conversation. The thing is, you know a lot of folks like to say, “We oughta have a conversation,” and then they go like this [looking to the left and to the right; crowd laughs]. If you think there ought to be a conversation, then start the conversation. And that’s important. We here are part of the conversation. You see? And there are other places I’m sure. We’re not seeing it on all the big news stations and so forth, but hey, there’ve always been people who don’t have access to those. But they start somewhere.

The second part which is a very crucial issue, which is the question you asked, is that if you look at the history of the people who actually received reparations—I mean outside of white supremacists and slave masters—if you’re thinking about, for instance, what happened to Japan or among Japanese Americans, if you are going to think specifically, for instance, what happened to Germans in terms of their response to what they did not only to Jews but also to the Roma and many other groups—you have to pay attention to certain important elements. And that is the people, the institutions that are to implement, to put into practice these situations never ever did so from a moral transformation of their heart. It has been because of a structural political situation in which it was in their interest to do so. So for instance, if you think of the standing of the United States after World War II—particularly with the rise of communist China and the Soviet Union—what the Pacific meant if the United States did not actually secure a certain relationship to Japan and a few other places. If you look at the German situation, the bottom line is they were vanquished! They had no option, okay? Those policies were imposed on them. But remember, the United States had a Marshall Plan in Europe because it was determined in the interest of the United States to do so to block the westward movement of the Soviet Union. So these are historical, very specific ways in which redress and reparations appear. The thing that I said earlier—let’s just pick one group, because there are other groups connected, but let’s just pick black Americans—is that so much of justice for black Americans is linked to the question of making America structurally a different kind of society, and there is not the kind of power base to make it in the interests of those who dominate American society to act to make things better. That doesn’t mean that the society cannot be transformed, but it means that what has to change is the relations of power, okay? Similarly, right now there are many immigrants, there are white immigrants all over the United States. But the face of immigration is Latinx peoples. Latinx peoples who are also citizens of this country and are linked to these issues in ways that it require

rethinking them. But we have a short time, there's more there to say, but that's a short version.

In terms of Black consciousness, let's face it: there are two things to consider. The first thing is: Black consciousness is a form of potentiated double consciousness. That's a fancy way of saying it reveals the dirty laundry of the society. Not many people like to see their drawers shown—you know, to see their fecal stains right out there to the public. So that's the first part. The second part, though, is connected to what I just said in my second comment. The second question, because it's not just about blacks needing the concept of the truth, it's also about understanding the truth as linked to political reality. It's where Black consciousness is a political consciousness. There's fear of it because you cannot have a political consciousness without power. Now think about it. Folks love in this country to hear black people be moralistic. They love hearing about the reverend, the so forth, the individualized declaration, "Oh, if we could just be individually better human beings!" But the moment you put the word 'black' with the word 'power'—oh, man! There's fear. There's a crisis because with power you can actually do something. This is because power—you know a lot of people think of power negatively in this country, but they don't understand that all the word 'power' means is the ability to make things happen, and that means that if you think about what oppression, discrimination, what those things are, they are forms of dis-empowerment. You see what I'm saying? So when we talk about reparations, we are not simply talking about the question of a kind of balance sheet. We're talking, when we talk about re-humanization, we're talking about re-empowerment of people. So they're able actually you make a difference in their lives. Even in the way we are talking right now—why it was important to hear you all speak—is because in a way if we're structurally to just be here and talk at you, that would be the contradiction of our thesis. Do you see what I'm saying? When you said [referring to an audience member who introduced himself earlier], "You're just a guy." You're not "just a guy"! None of you in here are just a woman; you're not just whatever these identities are. We were asked to be here because we respect what you are as a human being. And that meant you were to get up. That's an act of power, an ability. Walk up here. That's another ability. You are able to speak. That's an ability. And there was a time even in this state where you would not have even been able to be in this room. That is what this about, and it's all connected. This discussion is only part of a much larger issue about the project of what we have when we talk about unity and freedom.