

## WORKING PAPER

### “Reparations for the Slave Trade: Rhetoric, Law, History and Political Realities”

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**Note to Readers:** This paper is drawn from my book in progress (with Anthony P. Lombardo), *Reparations to Africa*, especially chapter 5 (“The Slave Trade: Law and Rhetoric”), chapter 6 “The Slave Trade: Debates,” and chapter 1, “Reparations to Africa: A New Kind of Justice.”

### **Introduction**

This paper considers the call for reparations to Africa from the West, for the trans-Atlantic slave trade, as a form of transitional justice between regions (the West and Africa), which might result in better understanding—and less political resentment, between the two areas. Nevertheless, the call for reparations is so far ridden with rhetorical over-statements, misunderstandings of international law, and misinterpretations

of history. These are unlikely to result in any material reparations from the West to Africa for the slave trade. The discussion below focuses especially on the 2001 United Nations World Conference against Racism in Durban, South Africa, and on the call for reparations by the Group of Eminent Persons (GEP) established by the Organization of African Unity in 1992. The two remaining active members of the GEP in the early twenty-first century were Ali Mazrui and Jacob Ajayi.

### **Rhetoric and the Slave Trade**

Much of the discussion of the slave trade among activists for reparations, and among those who attended the World Conference against Racism at Durban, is ridden with inflated figures of how many people were transported across the Atlantic as slaves. Joseph Inikori, a Nigerian-American historian, estimates that approximately 13 million individuals—possibly as many as 15.4 million, if missing records are taken into account--were transported across the Atlantic from Western Africa from the 1440s to the 1860s.<sup>1</sup> A report commissioned by UNESCO as a guide to teachers in the 1990s states that twelve million people were sent across the Atlantic, of whom about 1.5 million died during the voyage across the ocean.<sup>2</sup> These numbers are far lower than the figures often cited in the debate on reparations.

Lord Anthony Gifford acted as an advocate for reparations in an unusual debate in the British House of Lords in 1996. He overestimated the number of slaves who were taken to the Americas and who died in transit, claiming "Around 20 million young people

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<sup>1</sup> Joseph E. Inikori, "Slave Trade: Western Africa", in John Middleton, ed., *Encyclopedia of Africa South of the Sahara*, vol. 4, New York: Charles Scribner's Sons, 1997, 91.

<sup>2</sup> Hilary McDonald Beckles, *Slave Voyages: The Transatlantic Trade in Enslaved Africans*, Paris: UNESCO, 2002, ED-2002/WS/37, p. 47.

were kidnapped, taken in chains across the Atlantic and sold...Millions more died in transit in the dungeons of the castles [in West Africa] such as Gore [Goree], Elmina and Cape Coast, or in the hell holes under the decks of the slave ships."<sup>3</sup> Gifford's figures bear some resemblance to those upon which scholars of the slave trade agree: other spokespersons for reparations cite much larger figures. Tseliso Thipanyane, a South African legal scholar, relies on an article in the *New African*<sup>4</sup> to claim that "about fifty million Africans were shipped out of the continent during the Atlantic slave trade alone:" he disregards the conservative estimate of 12 million, cited in the same article.<sup>5</sup> That a serious scholar so drastically overstates the numbers enslaved indicates the difficulties in bridging the Western-African divide over this issue.

These rhetorical differences between scholarly and other figures were reflected at Durban. The representative from Niger referred in his speech to "hundreds of millions of Black victims, dead as a consequence of deportation, slavery and colonialism."<sup>6</sup> The representative from Angola asserted "it is estimated that from 1500 to 1900 more than a 100 million Africans were transported across the Atlantic to the Americas."<sup>7</sup> The NGO Forum at Durban also claimed that "the Trans-Atlantic Slave Trade and slavery...forced

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<sup>3</sup> Lord Gifford, "Slavery: Legacy," Hansard, House of Lords of the British Parliament, 14 March, 1996, p. 1.

<sup>4</sup> George Pavlu, "The first slavers," *New African*, no. 379, 1999, p. 17.

<sup>5</sup> Tseliso Thipanyane, "Current Claims, Regional Experiences, Pressing Problems: Identification of the Salient Issues and Pressing Problems in an African Post-Colonial Perspective," in George Ulrich and Louise Krabbe Boserup, eds. *Human Rights in Development: Reparations; Redressing Past Wrongs*, The Hague: Kluwer Law International, 2003, p. 36.

<sup>6</sup> Republique du Niger, Communication de la Commission Nationale des Droits de l'Homme et des Libertes Fondamentales, a la Conference Mondiale contre le Racisme, la Discrimination Raciale, la Xenophobie, et l'Intolerance qui y est Associe, Durban le 3 September 2001, p.2, translated from the French.

<sup>7</sup> Georges Chikoti, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Statement by Dr. Georges Chikoti, Angolan Deputy Minister of Foreign Affairs," Durban, South Africa, September 02.2001, <http://www.un.org/WCAR/statements/angolaE.htm>.

the brutal removal and the largest forced migration in history (over one hundred million).”<sup>8</sup>

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

The rhetoric at Durban was not only about the effect of the trans-Atlantic trade on slaves and on Africa: it was also about how contemporary law ought to be applied to the trade. Many African diplomats and others at Durban believed that contemporary laws establishing crimes against humanity ought to be retroactively applied to the slave trade, so that those responsible for it could be punished, much as if they were trading in slaves today. Some Western diplomats and legal scholars replied that although the slave trade ought to have been considered a crime against humanity at the time it occurred, it was not. Therefore, the law could not be applied retroactively, and by logical corollary, Western nations were not liable to pay compensation for the trade.

Part of this debate concerned when slavery and the slave trade became illegal under international law. Legal scholars agree that the two practices were not firmly, and universally, illegal until 1926. This was the date of the International Convention to Suppress the Slave Trade and Slavery,<sup>9</sup> which defined slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."<sup>10</sup> Even this supposedly definitive Convention, however, contained very weak enforcement measures. It set no time limit for the eradication of slavery, and measures for

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<sup>8</sup> World Conference Against Racism NGO Forum, *WCAR NGO Forum Declaration*, p. 8, par. 66, 3 September 2001, <http://www.racism.org.za/declaration.htm>.

<sup>9</sup> International Convention to Suppress the Slave Trade and Slavery, Sept. 25, 1926, 46 Stat.2183, 60 LNTS 253. (Spitzer, 1323)

<sup>10</sup> Marc Bossuyt and Stef Vandeginste, "The Issue of Reparation for Slavery and Colonialism and the Durban World Conference against Racism," *Human Rights Law Journal*, vol. 22, no. 9-12, 31 December 2001, p. 343.

enforcement of abolition and for monitoring of progress were rejected as violations of state sovereignty.<sup>11</sup> The actual abolition of the slave trade and slavery took over 150 years, however, as various countries at various times abolished first the trade, then slavery itself. Thus, there is a possibility that activists could demand reparations from states now in existence, that were also in existence at the time of abolition, but which tolerated violations of their own laws. These states include the United Kingdom, the United States, the Netherlands, France, Portugal and Spain.

The first African slaves arrived in the Americas in 1502.<sup>12</sup> For the next 270 years, the trade and slavery itself were legal everywhere in Europe and the Americas. In 1772 an English judge ruled that slaves in Britain could not be sent out of the country against their will;<sup>13</sup> some scholars conclude from this that 15,000 slaves in Britain were then freed,<sup>14</sup> although subsequent to 1772 the status of slaves in Britain was still debated.<sup>15</sup> Britain abolished the slave trade in 1807,<sup>16</sup> followed by the United States in 1808, the Netherlands in 1814, and France in 1820.<sup>17</sup> In 1815, the Congress of Vienna, an international diplomatic conference of European powers called to settle territorial and other matters at the end of the Napoleonic Wars, declared slavery "repugnant to the principles of humanity and universal morality" but did not ban it.<sup>18</sup> In 1820 a US

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<sup>11</sup> Suzanne Miers, *Slavery in the Twentieth Century*, Walnut Creek, CA: Altamira Press, 2003, p. 130.

<sup>12</sup> Hilary MacDonald Beckles, *Slave Voyages*, pp. 4-9.

<sup>13</sup> Christopher N. Camponovo, "Disaster in Durban: The United Nations World Conference against racism, Racial Discrimination, Xenophobia, and Related Intolerance," *The George Washington International Law Review*, vol. 34, no. 4, 2003, p. 673 ff.

<sup>14</sup> Hilary MacDonald Beckles *Slave Voyages*, p. 7.

<sup>15</sup> Personal communication from Paul Lovejoy, August 4, 2006.

<sup>16</sup> Hilary MacDonald Beckles, *Slave Voyages*, p. 4.

<sup>17</sup> Paul Lovejoy, *Transformations in Slavery: A History of Slavery in Africa*, New York: Cambridge University Press, 1983, pp. 283-4.

<sup>18</sup> Dinah Shelton, "The World Of Atonement: Reparations for Historical Injustices," *Miskolc Journal of International Law*, , vol. 1, no.2, 2004, p. 284.

Congressional Act declared the slave trade to be piracy, punishable by death.<sup>19</sup>

Nevertheless, according to du Plessis, it is difficult to argue that customary international law condemned slavery and the slave trade in the early nineteenth century.<sup>20</sup> For example, in 1825 the US Chief Justice ruled that the slave trade was legal, despite "international condemnation of its immorality."<sup>21</sup>

The General Act of Berlin in 1885 and the General Act of Brussels on the Slave Trade and on the Importation into Africa of Firearms, Ammunition, and Spirituous Liquors in 1890 both mandated cooperation to end the slave trade,<sup>22</sup> although the Berlin Act pertained only to the international slave trade, not to trade within states.<sup>23</sup> Brazil abolished slavery in 1888.<sup>24</sup> Finally, as noted above, by 1926 the slave trade and slavery were firmly illegal under international law.

The call for reparations for the slave trade and slavery is, then, in legal terms at least partially a call for the retroactive application of laws. Retroactive application of law is generally prohibited. Yet, as Spitzer states, "International law is not a fixed body of rules. Rather, it is an evolving, dynamic indicator of the collective moral progress among and within nations."<sup>25</sup> He also notes that during the eighteenth and nineteenth centuries, international law "developed according to treaties made among five or six of the great

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<sup>19</sup> Dinah Shelton, "The World Of Atonement: Reparations For Historical Injustices," p. 284.

<sup>20</sup> Max du Plessis, "Historical Injustice and International Law: An Exploratory Discussion of Reparation for Slavery," *Human Rights Quarterly*, vol. 25, no. 3, August 2003, p. 235.

<sup>21</sup> Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice*, New York: The New Press, 1999, p.209.

<sup>22</sup> Christopher N. Camponovo, "Disaster in Durban: The United Nations World Conference against racism, Racial Discrimination, Xenophobia, and Related Intolerance," p.675.

<sup>23</sup> Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice*, p. 13.

<sup>24</sup> Paul Lovejoy, *Transformations in Slavery: A History of Slavery in Africa*, p. 286.

<sup>25</sup> Ryan Michael Spitzer, "The African Holocaust: Should Europe pay reparations to Africa for Colonialism and Slavery?", *Vanderbilt Journal of Transnational Law*, vol. 35, 2002, p. 1319.

powers of Europe," treaties that often justified conquest, slavery and colonialism.<sup>26</sup>

Under these circumstances, reparations activists might be hesitant to accept international law as authoritative. The laws the Europeans powers made often furthered their own interests. The British used the Berlin Conference to further their prestige as an anti-slave trade power, at the same time as the Conference confirmed their colonial interests in Africa.<sup>27</sup> King Leopold II of Belgium agreed to hold the 1890 conference in Brussels in part to further his own claim to the Congo,<sup>28</sup> where his agents treated the Congolese as brutally as any American slave master treated his slaves.<sup>29</sup>

Referring to the 2001 Draft Articles on Responsibility of States for Internationally Wrongful Acts, Shelton argues that there might be some possibility of seemingly retroactive application of laws against slavery, if it were possible to show its continuous effects. "Any rule which relates to the licit or illicit nature of a legal act shall apply while the rule is in force, but any rule which relates to the continuous effects of a legal act shall apply to effects produced while the rule is in force, even if the act has been performed prior to the entry into force of the rule."<sup>30</sup> Thus, advocates for reparations might argue that Africa's present poverty is an on-going effect of the slave trade, so that current laws about effects of past actions—even if the actions were not considered crimes at the time—should be applied. Yet the problem of the long and complicated causal chain remains. It would be very difficult to prove that, but for the crime—the slave trade, the harm—poverty would not exist in Africa today. As Shelton notes, "causation in fact does

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<sup>26</sup> Ryan Michael Spitzer, "The African Holocaust: Should Europe pay reparations to Africa for Colonialism and Slavery?," p. 1320.

<sup>27</sup> Suzanne Miers, *Slavery in the Twentieth Century: The Evolution of a Global Problem*, Lanham, MD: Rowman and Littlefield, 2003, p. 19.

<sup>28</sup> David Brion Davis, *Slavery and Human Progress*, New York: Oxford University Press, p. 305.

<sup>29</sup> Adam Hochschild. *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa*. New York, NY: Houghton Mifflin Company, 1999.

<sup>30</sup> Shelton, "The World of Atonement: Reparations For Historical Injustices," p. 276.

not suffice to entail reparations, because the injury may be too remote, inconsequential, or indirect for legal causation to be attributed."<sup>31</sup>

A country such as Britain, moreover, could argue that it has already made reparation for the slave trade though its attempts to abolish it in the nineteenth century. Lord Wilberforce, a descendant of the great abolitionist, William Wilberforce, made this argument in the 1996 debate on African reparations in the British House of Lords: "Ever since 1833 when slavery was abolished in the British Empire," he said, "British governments have striven by law, by force, by use of their navy, by influence and by the expenditure of money, to have slavery abolished in African countries, to stop the trade in human beings, and to mitigate the consequences."<sup>32</sup> The import of this argument is that if historical wrongs are to be retroactively judged, then so should state actions taken to rectify those wrongs, however historically remote they may now be.

Some reparationists refer to the trans-Atlantic slave trade as an instance of "unjust enrichment."<sup>33</sup> This term possesses a certain moral cachet: it implies that slave-trading and -buying nations immorally enriched themselves at the expense of Africa and Africans. However, Bossuyt and Vandeginste state that "While this notion is...legally recognized under various domestic legal systems...there is no public international legal foundation for such claim," and in any case, there are statutes of limitations on claims of unjust enrichment in domestic law.<sup>34</sup>

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<sup>31</sup> Dinah Shelton, "Righting Wrongs: Reparations in the Articles on State Responsibility," *The American Journal of International Law*, vol. 96, no. 4, October 2002, p. 846.

<sup>32</sup> Lord Gifford, "Slavery: Legacy," Hansard, House of Lords of the British Parliament, 14 March, 1996, p. 6.

<sup>33</sup> Robert Dible and Johnston Njoku, "Cultural Perceptions of Africans in Diaspora and in Africa on Atlantic Slave Trade and Reparations," *African and Asian Studies*, vol. 4, no. 3, 2005.

<sup>34</sup> Bossuyt and Vandeginste, "The Issue of Reparation for Slavery and Colonialism and the Durban World Conference against Racism," p. 345.

In actual domestic practice, moreover, "unjust enrichment" often means that an individual has unjustly violated a contractual agreement in such a way as to unfairly enrich himself.<sup>35</sup> If this is the case, historical documentation of the slave trade might be used to show that contracts between willing African sellers and willing European buyers were made and respected, each party obtaining what it had expected to obtain from the other party, neither unjustly enriching itself. Indeed, arguments could even be made that individual Africans unjustly enriched themselves at the expense of individual Westerners. For example, in 1804, an African seller of slaves failed to deliver the entire amount of rice and number of slaves he had contracted to deliver to an American slave-buyer, Jonathan Sabens of Bristol, Rhode Island. The shortfall was about twenty per cent of what he had promised.<sup>36</sup> This might constitute unjust enrichment on the part of the African party to the contract.

While the concept of unjust enrichment might be confined at present to domestic law, however, sometimes domestic legal principles are transferred to the international realm, as jurists revise their views. The authoritative *Black's Law Dictionary* defines unjust enrichment as a "general principle that one person should not be permitted unjustly to enrich himself at [the] expense of another," further explaining that "Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another."<sup>37</sup> This definition refers to persons, not corporate entities such as states. But reparationists might argue that, the general principle of unjust enrichment

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<sup>35</sup> I am grateful to Adrian L. Jones, LIB, and Keith Calow LIB., both of whom attempted to explain the law of unjust enrichment to me, respectively on March 10, 2006, and January 19, 2007.

<sup>36</sup> George E. Brooks and Bruce L. Mouser, "An 1804 Slaving Contract Signed in Arabic Script from the Upper Guinea Coast," *History in Africa*, vol. 14, 1987, pp. 341-348.

<sup>37</sup> Bryan A. Garner, ed. *Black's Law Dictionary*, 5<sup>th</sup> edition, West Publishing, 1979.

having both been acknowledged and applied within domestic jurisdictions, it should also be applied to international legal relations.

The major legal claim made at Durban by those seeking reparations was that "Slavery and the slave trade are a crime against humanity and should always have been so, especially the trans-Atlantic slave trade."<sup>38</sup> For example, the Kenyan spokesperson, speaking on behalf of the African group, said, "[the slave trade] is not a crime against humanity just for today, not just for tomorrow, but for always and for all times...crimes against humanity are not time-bound."<sup>39</sup> Crimes against humanity have been illegal under international law since 1945, and since 2002 can be tried by the International Criminal Court. The statement at Durban that slavery and the slave trade "should always" have been crimes against humanity was a compromise between African and other states that wanted them recognized as crimes against humanity, and Western states that were afraid that such recognition would result in their legal liability. But the term "crimes against humanity" was also a rhetorical device, to bring these historical events into the contemporary discourse of gross human rights violations. The official Declaration that ended the Durban Conference acknowledged the "massive human suffering and the tragic plight of millions of men, women and children caused by slavery, the slave trade, the transatlantic slave trade....," but no apology was offered by the slave trading states. The Declaration called on states only to "honor the memory of victims of past tragedies."<sup>40</sup>

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<sup>38</sup> "Durban Declaration," par. 13, cited in Christopher N. Camponovo, "Disaster in Durban: The United Nations World Conference against racism, Racial Discrimination, Xenophobia, and Related Intolerance," p. 697.

<sup>39</sup> Bossuyt and Vandeginste, "The Issue of Reparation for Slavery and Colonialism and the Durban World Conference against Racism," p. 350.

<sup>40</sup> Christopher N. Camponovo, "Disaster in Durban: The United Nations World Conference against racism, Racial Discrimination, Xenophobia, and Related Intolerance," p. 698.

Adopting the carefully crafted legal language of Durban, the European Community issued a statement proclaiming that slavery was a crime against humanity and should always have been so. The government of France passed a law a few months before the Durban conference acknowledging that slavery *is* a crime against humanity. The French text used the word "reconnait" (from "reconnaitre": to recognize) thus acknowledging the crime, but not apologizing for it. Moreover, the use of the present tense suggests an unwillingness to take responsibility for the past. The French were also careful to refer to the slave trade in the Indian Ocean (carried out by Muslims) as well as the trans-Atlantic trade.<sup>41</sup> The French law, however, had no real consequences and created no material or other obligations.<sup>42</sup>

Most commentators agree that the European and French phraseology was designed so that states that had engaged in the trans-Atlantic slave trade or had permitted enslavement of Africans could avoid legal liability. By saying that the slave trade *should* always have been a crime against humanity, these states were saying that slavery was not a crime against humanity at the time it occurred; thus, they carried no liability. Without this phraseology, for example, European states might be liable in the United States under the Alien Torts Claims Act, which allows a plaintiff to sue a defendant for committing a crime against humanity. Such liability is far from certain, however, and would also have

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<sup>41</sup> Legifrance: Le service Public de la Diffusion du Droit, "loi no. 2001-434 du 21 mai 2001 tendant à la reconnaissance de la traite et de l'esclavage en tant que crime contre l'humanité", <http://www.legifrance.gouv.fr/WAspad/Visu?cid=558011&indice=11&table=JORF&ligneD>, retrieved April 25, 2004. The exact wording was "La République française reconnaît que la traite négrière transatlantique...constituent un crime contre l'humanité."

<sup>42</sup> Michel Giraud, "Le passe comme blessure et le passé comme masque," *Cahiers d'Etudes africaines: Reparations, restitution, reconciliation entre Afriques, Europe et Ameriques*, Vol. XLIV, No. 1-2, 173-174, 2004, p.71, note 9.

to overcome the Foreign Sovereign Immunities Act, which generally grants foreign states immunity from prosecution in the US.<sup>43</sup>

Camponovo argues that even if retroactivity were not a problem, it is factually inaccurate to characterize the slave trade as a crime against humanity. Citing the Rome Statute of the ICC, he points out that the term has a specific legal definition: "any of a series of identified acts, including enslavement, 'committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack'."<sup>44</sup> If this is the case, then not only Europeans, but also Africans, might be retroactively liable for crimes against humanity. At times, Europeans raided directly for slaves, but at other times, they bought slaves from Africans who sometimes raided each other for human captives.

While persuasive to many Western diplomats and lawyers, these legal discussions are greeted with impatience by some reparationists. Thipanyane rejects the principle of non-retroactivity as it pertains to slavery and the slave trade. He believes that the reason there were no international treaties or customary laws outlawing slavery and colonialism at the time they occurred was because "the Western states that were the driving forces behind the development of international law did not recognize the fact that the enslavement and colonization of Africans were unjust and morally wrong." He concludes that "Legal technicalities cannot and should not be used to deny justice to victims of harmful wrongdoing."<sup>45</sup> Roger Wareham, an African-American activist,

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<sup>43</sup> Anthony J. Sebok, "Slavery, Reparations and Potential Legal Liability: The Hidden Legal Issue Behind the U.N. racism Conference," *Findlaw: Legal News and Commentary*, Sept. 10, 2001, <http://writ.findlaw.com/sebok/20010910.html>.

<sup>44</sup> Christopher N. Camponovo, "Disaster in Durban: The United Nations World Conference against racism, Racial Discrimination, Xenophobia, and Related Intolerance," p. 705.

<sup>45</sup> Thipanyane, "Current Claims, Regional Experiences, Pressing Problems: Identification of the Salient Issues and Pressing Problems in an African Post-Colonial Perspective," pp. 47-48, quotations from pa 48.

objected to the report submitted by the Dutch legal scholar, Theo Van Boven, to the United Nations in 1993, stating, "it would be difficult and complex to construe and uphold a legal obligation to pay compensation to the descendants of the victims of the slave trade and other early forms of slavery."<sup>46</sup> In Wareham's view, "Once again a different standard was being applied to African people [by van Boven]."<sup>47</sup> The arguments of both these authors reflect a view of international law articulated over thirty years ago by Walter Rodney, the author of *How Europe Underdeveloped Africa*, a work much cited by Reparationists. Rodney commented that "the so-called international law which governed the conduct of nations on the high seas was nothing else but European law. Africans did not participate in its making, and in many instances African people were simply the victims, for the law recognized them only as transportable merchandise."<sup>48</sup>

International law, like all other law, evolves and changes; thus, even if it was originally formulated by a small group of Western powers, African and other states can now influence it. Spitzer suggests that there are ways African states could sue for slavery in US courts. He argues that slavery was illegal under *jus cogens* long before it was declared illegal in written law. *Jus cogens* refers to laws "accepted and recognized by the international community of States as a whole from which no derogation is permitted."<sup>49</sup> Further, argues Spitzer, it was impossible for African states to sue the US until

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<sup>46</sup> United Nations Document E.CN.4/sub.2/1993/8, July 2, 1993, cited in Roger Wareham, "The Popularization of the International Demand for Reparations for African People," in Raymond A. Winbush, eds., *Should America Pay? Slavery and the Raging Debate in Reparations*, New York: HarperCollins, 2003, p. 228.

<sup>47</sup> Roger Wareham, "The Popularization of the International Demand for Reparations for African People," in Raymond A. Winbush, eds., *Should America Pay? Slavery and the Raging Debate in Reparations*, New York: HarperCollins, 2003, p. 228.

<sup>48</sup> Walter Rodney, *How Europe Underdeveloped Africa*, London: Bogle-l'Ouverture Publications, 1972, p. 86.

<sup>49</sup> Geoffrey Robertson, *Crimes Against Humanity: The Struggle for Global Justice*, p. 86.

international law caught up with the moral reprehensibility of slavery.<sup>50</sup> With the creation of the ICC, international law has caught up and the clock has started to tick. African states might now, according to Spitzer, have the chance to sue other states in international courts for the past crime of the slave trade.

### **Western, Muslim, and African Slavery**

The focus of the African demand for reparations is on the trans-Atlantic slave trade. The West is asked for reparations because Europeans and Americans bought Africans to use as slaves in the Americas. This focus on Africa's relations with the West, but not on its relations with other regions, raises some uncomfortable questions. Not only the Western world, but also the Muslim world, enslaved Africans. Moreover, there was slavery within Africa, preceding, coinciding with, and post-dating the trans-Atlantic trade.

Some reparationists may be under the impression that many times more enslaved Africans crossed the Atlantic Ocean to the Americas than crossed the Red Sea to Arabia. This is erroneous. As I noted above, the numbers who crossed the Atlantic Ocean, or who died in transit, are often grossly exaggerated, but a figure of about 12-14.5 million is generally considered accurate. Estimates of the numbers who were taken in the Muslim slave trade, over a much longer time, are more tenuous. Patrick Manning suggests that six million enslaved people from Africa traveled to the "Orient" during the high period of the

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<sup>50</sup> Ryan Michael Spitzer, " The African Holocaust: Should Europe pay reparations to Africa for Colonialism and Slavery?," p.1340-44.

trans-Atlantic trade, that is, from 1500 to 1900.<sup>51</sup> Manning suggests that, during the same period, eight million people were "enslaved and retained within the African continent," while "an estimated 4 million people lost their lives as a direct result of enslavement within Africa."<sup>52</sup>

Both Mazrui and Ajayi justified focusing only on the Western slave trade. Mazrui believed that the Muslim trade was qualitatively different from the trans-Atlantic. Western slavers were the most race-conscious, asserted Mazrui, whereas "Islam went further than others to encourage *emancipation* of slaves," and also had several other customs which made it possible to integrate slaves into free society, for example, by recognized alliances between free males and slave women.<sup>53</sup>

Mazrui's opinion is confirmed in part by scholarly accounts. In the American system of slavery, children of free men and slave women were considered slaves: the child followed the condition of its mother. Under Islam, children of free fathers and slave mothers were considered free, if the father acknowledged them.<sup>54</sup> If a Muslim man married a slave woman, she was automatically freed. Slaves occupied a variety of roles, and could rise to quite high positions, sometimes having authority over free people. Within Muslim African societies, "slavery was conceived within a framework which encouraged conversion to Islam, allowed for the emancipation of acculturated and loyal slaves, and perpetuated a paternalistic attitude among slave masters in the treatment of

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<sup>51</sup> Patrick Manning, "The Slave Trade: the Formal Demography of a Global System," in Joseph E. Inikori and Stanley L. Engerman, eds. *The Atlantic Slave Trade: Effects on Economies, Societies and Peoples in Africa, the Americas, and Europe*, Durham, N.C.: Duke University Press, 1992, p. 119.

<sup>52</sup> Patrick Manning, "The Slave Trade: the Formal Demography of a Global System," pp. 119-20.

<sup>53</sup> Ali A. Mazrui, *Black Reparations in the Era of Globalization*, Binghamton, N.Y.: Institute of Global Cultural Studies, 2002, pp. 33-46. Quotation from p. 41, emphasis in original.

<sup>54</sup> David Brion Davis, *Slavery and Human Progress*, p. 18.

slaves."<sup>55</sup> Islam prohibited the enslavement of Muslims,<sup>56</sup> though sometimes this prohibition was reversed to suggest that enslavement of non-Muslims was endorsed.<sup>57</sup> Islam also regarded manumission (freeing of slaves) with favor.<sup>58</sup>

Another argument explaining why reparationists focus on the trans-Atlantic slave trade, but not the Muslim trade, is the depth of racism in Europe and the Americas, both prior to and as a result of the slave trade. Ajayi claimed that the relationship over four or five centuries between white traders and masters and black slaves "bred racism that was never a part of the Muslim Arab world as Arabs enslaved both whites and blacks."<sup>59</sup> In the Arab world, white or Asian slaves were as common as African slaves. For many centuries, there was a trade in slaves from Europe to the Arabian Peninsula. In Africa, owners and slaves shared color, although Africans did not view themselves as homogeneously "black," as did their European owners in the Americas. Prejudice by lighter-skinned "Arab" Africans against darker-skinned "black" Africans was and is common.

Not all scholars believe that racism characterized the trans-Atlantic, but not the Muslim, slave trade. Davis argues that "the Arabs and their Muslim allies were ...the first people to view blacks as suited by nature for the lowest and most degrading forms of bondage."<sup>60</sup> According to Davis, Arab writers stereotyped Africans as possessing distinctive traits, including "blackness of skin and kinky hair; ...wide nostrils; thick

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<sup>55</sup> Paul Lovejoy, "Slavery in the Context of Ideology," in Paul Lovejoy, ed., *The Ideology of Slavery in Africa*, Beverly Hills, CA: Sage, 1981, p. 17.

<sup>56</sup> David Brion Davis, *Slavery and Human Progress*, p. 39.

<sup>57</sup> Martin Klein, "The Impact of the Atlantic Slave Trade on the Societies of the Western Sudan," in Joseph E. Inikori and Stanley L. Engerman, *The Atlantic Slave Trade: Effects on Economies, Societies, and Peoples in Africa, the Americas, and Europe*, 1992, p. 35.

<sup>58</sup> David Brion Davis, *Slavery and Human Progress*, p. 39.

<sup>59</sup> Jacob Ade Ajayi, "The Politics of Reparation in the Context of Globalisation", Distinguished Abiola Lecture, African Studies Association, Washington, D.C., December 7, 2002, pp.7-8.

<sup>60</sup> David Brion Davis, *Slavery and Human Progress*, p.8.

lips;...an offensive odor;...inferior intelligence; and an oversized penis."<sup>61</sup> These stereotyped characteristics may be familiar to Western readers.

In some cases, too, enslavement by Muslims was as arduous for slaves as enslavement by Europeans. As early as the ninth century C.E., Arabs used intensive African slave labor to prepare the marshlands of what is now Southern Iraq for cultivation.<sup>62</sup> In the nineteenth century, African slaves labored on date plantations in Oman.<sup>63</sup> On the island of Zanzibar, slaves worked for Muslim owners on clove plantations, where "physical punishment was at the heart of discipline."<sup>64</sup> The Arab trade in slaves from Africa predated the European trade, and continued via smuggling at least until the 1960s, although numbers traded by then were small.<sup>65</sup> In the 1950s, slaves were still being trafficked to Saudi Arabia from Mauritania and Mali.<sup>66</sup> Oman was the last state in the Arabian Peninsula to outlaw slavery, in 1970.<sup>67</sup> Had European or American countries still been buying slaves from Africa during the first half of the twentieth century, this would undoubtedly have been considered scandalous behavior by African reparationists. Yet the trade to the Arab world well into the twentieth century is unnoticed in the rhetoric of reparation.

Reparationists argue that it is fair to ask for reparations for trans-Atlantic, but not the Muslim, slave trade because the former was unique in its brutality. Ajayi argued that "the factor of competitive capitalism in Europe...turned slaves into pure cargo denuded

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<sup>61</sup> David Brion Davis, *Slavery and Human Progress*, p. 42.

<sup>62</sup> David Brion Davis, *Slavery and Human Progress*, p. 5.

<sup>63</sup> Edward A. Alpers, "Slave Trade: Eastern Africa," in John Middleton, Editor in Chief, *Encyclopedia of Africa*, vol. 4, New York: Charles Scribner's Sons, 1997, p. 95.

<sup>64</sup> Frederick Cooper, "Islam and Cultural Hegemony: the Ideology of Slaveowners on the East African Coast," in Paul Lovejoy, ed. *The Ideology of Slavery in Africa*, p. 280.

<sup>65</sup> Miers, *Slavery in the Twentieth Century*, p. 25.

<sup>66</sup> Miers, *Slavery in the Twentieth Century*, p. 348.

<sup>67</sup> Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice*, p. 13.

of all humanity. Economic factors of insurance and transportation across the Middle passage bred this practice of regarding slaves as pure cargo and no longer human beings. This was to an extent that would have been offensive in Islam and unbelievable in indigenous African slavery."<sup>68</sup>

It is not altogether accurate to state that all slaves in the Americas suffered extreme disabilities. Some were able to buy their freedom from their owners; two well-known cases are those of Equiano, who bought his freedom from his Quaker master in the eighteenth century, and of the great nineteenth-century abolitionist Frederick Douglass. Equiano, in particular, might have become a human sacrifice, had he stayed in his native Igboland, in present-day Nigeria. Some skilled slaves were rented out by their owners as craftsmen, and were permitted to keep some of the rent money. Household slaves were sometimes favored over "field" slaves, and masters who fathered children with slave mothers often favored them, even if they never formally acknowledged the children. The condition of slavery in the Americas, therefore, varied over time, space, and status.

Nevertheless, accounts by some other scholars confirm Ajayi's comparison of trans-Atlantic and indigenous African slavery. Many people in Africa were taken as slaves in war; many were born slaves; and some became slaves, for example, when they disobeyed the law. One estimate is that between a quarter and a half of the populations of west and central Africa were slaves.<sup>69</sup> On the other hand, many indigenous slaves in Africa could rise from slave to semi-free or free status. In both Muslim and non-Muslim

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<sup>68</sup> Jacob Ade Ajayi, "The Politics of Reparation in the Context of Globalisation", Distinguished Abiola Lecture, African Studies Association, Washington, D.C., December 7, 2002.

<sup>69</sup> Igor Kopytoff, "Slavery and Servile Institutions: an Anthropological Perspective," in John Middleton, Editor in Chief, *Encyclopedia of Africa*, vol. 4, New York: Charles Scribner's Sons, 1997, p. 112.

African societies, women and children were highly valued. Women slaves could cultivate land, and produce children who would also be used as cultivators.<sup>70</sup> In some African societies, free fathers of children of slave mothers recognized their children, who occupied a status somewhere on the "continuum of status disabilities" that distinguished slavery from full social incorporation into the family and kin group.<sup>71</sup> Slave women who were taken as wives or concubines of their owners also enjoyed some privileges. Over the generations, people of slave descent could work their way up into almost fully equal incorporation into the kin unit of their owners, even if they were not biologically descended from them. On the other hand, some locations on this continuum could result in full enslavement. Many African societies practiced pawning, a form of debt bondage in which a child or junior kinsman might be turned over by a debtor to a creditor, to work off a debt: if the debt was not worked off, the pawn could be enslaved, even though legally, a pawn could not be enslaved.<sup>72</sup> Some forms of trade in women also resulted in what is now known as servile marriage.

Slaves in Africa were also subject to some extreme disabilities that did not apply to free people: they could be used for human sacrifice; they could be killed in order to accompany a deceased owner into the next world; and when food was scarce, they might be sold.<sup>73</sup> In some African societies that practiced cannibalism, slaves could be eaten.<sup>74</sup> Slaves were also sometimes worked very hard, in conditions that approached the

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<sup>70</sup> A classic overview of slavery in Africa, from which I draw much of my analysis, is Igor Kopytoff and Suzanne Miers, "African 'Slavery' as an Institution of Marginality," in Suzanne Miers and Igor Kopytoff, eds., *Slavery in Africa: Historical and Anthropological Perspectives*, Madison: University of Wisconsin Press, 1977.

<sup>71</sup> Victor Uchendu, "Slaves and Slavery in Igboland, Nigeria," in Suzanne Miers and Igor Kopytoff, eds. *Slavery in Africa: Historical and Anthropological Perspectives*, Madison: University of Wisconsin Press, 1977, p. 123.

<sup>72</sup> Paul Lovejoy, "Slavery in the Context of Ideology," p. 15.

<sup>73</sup> Kopytoff and Miers, "African 'Slavery' as an Institution of Marginality", p. 52.

<sup>74</sup> Paul Lovejoy, "Slavery in the Context of Ideology," p. 23.

exploitation of American slaves; for example, in the gold mines owned by the Asante Empire,<sup>75</sup> or on the plantations that developed in the coastal areas of Africa in the nineteenth century, in part to provision the ships coming from across the Atlantic.<sup>76</sup> As Paul Lovejoy puts it, in Africa, "slaves were property...Slaves were outsiders by origin...The relationship between slave and master was ultimately based on coercion."<sup>77</sup>

Even in the late twentieth century, descendants of slaves suffered some social disabilities, although in many African societies, it was considered extremely impolite to mention an individual's slave background.<sup>78</sup> Moreover, slavery was still practiced in the early twenty-first century in a few African countries. The 2005 United States Department of State (USDS) reports on human rights noted that traditional slavery—based on the status of being born a slave—was still practiced in Cameroon, Gabon, Malawi, Mauritania, and Niger.<sup>79</sup> This continued internal slavery was barely mentioned at Durban, except for the delegates from Niger who mentioned a new penal code to outlaw slavery, so that "never in Niger will human beings, merely by fact of their birth in certain families, see themselves held in contempt by their fellow men who claim, on the basis of custom, to have rights of property over them."<sup>80</sup> In Mauritania, formal abolition of

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<sup>75</sup> A. Norma Klein, "The Two Asantes: Competing Interpretations of 'Slavery' in Akan-Asante Culture and Society," in Lovejoy, ed. *The Ideology of Slavery in Africa*, p.150.

<sup>76</sup> David Northrup, "The Ideological Context of Slavery in Southeast Nigeria in the 19th Century," in Paul Lovejoy, ed. *The Ideology of Slavery in Africa*, p. 109, and Paul Lovejoy, "Slavery in the Context of Ideology," p. 32.

<sup>77</sup> Paul Lovejoy, "Slavery in the Context of Ideology," p. 11.

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<sup>79</sup> United States, Bureau of Democracy, Human Rights and Labor, "Country Reports on Human Rights Practices: 2005," 8 March 2006, <http://www.state.gov/drl/rls/hrrpt/2005/61553.html>.

<sup>80</sup> Republique du Niger, Communication de la Commission Nationale des Droits de l'Homme et des Libertes Fondamentales, a la Conference Mondiale contre le Racisme, la Discrimination Raciale, la Xenophobie, et l'Intolerance qui y est Associe, Durban le 3 September 2001, p.2, translated from the French. p. 2.

slavery in 1980 did not result in actual freedom for its slaves. Strong social distinctions were maintained among freemen, slaves, and former slaves, called *haritans*.<sup>81</sup>

These forms of slavery are distinct from the modern forms of slavery found in many African countries and many other countries worldwide, such as trafficking in women and children for purposes of sexual exploitation, capture of children to be used as soldiers, and bonded child labor. Nevertheless, the continued existence of traditional slavery does raise the question whether African states that countenance it ought to be liable under the kinds of laws proposed at Durban. Would African activists and diplomats be willing to accuse each other of crimes against humanity in the International Criminal Court, for example?

Some opponents to reparations argue that no reparations are owed, because Africans willingly sold slaves to Europeans. Against this view, Ajayi argued that those who sold slaves were "as much victims of the trading system as were the captives." The European demand for slaves, in Ajayi's view, was what caused African states to raid one another, and upset the political balance in their continent. Ajayi further argued that Africans did not have the same moral responsibility for the trade as Europeans because the latter controlled it, while "the Africans...had no initiative in the matter."<sup>82</sup>

One can distinguish here between individual African entrepreneurs, and even the societies from which they came, and the continent as a whole. Some individual Africans did indeed profit handsomely from the slave trade; to assume that they were mere victims, as Ajayi implies, is to deny them the agency due to intelligent, thinking beings,

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<sup>81</sup> Suzanne Meirs, *Slavery in the Twentieth Century: The Evolution of a Global Problem*, pp. 418-20; Kevin Bales, *Disposable People: New Slavery in the Global Economy*, Berkeley: University of California Press, 1999, pp. 80-120.

<sup>82</sup> Jacob Ade Ajayi, "The Politics of Reparation in the Context of Globalisation", Distinguished Abiola Lecture, African Studies Association, Washington, D.C., December 7, 2002, p.9.

who, like Europeans, were willing to profit in whatever manner possible. Some groups of Africans prospered because they were able to capture or buy slaves, and sell them to Europeans. Thus, notes the American African philosopher Anthony Appiah, "it is not clear that the wrongs done to the enslaved were done to black people as a collectivity. The real victims of the slave trade were the enslaved. My Asante ancestor, Akroma-Ampim, captured and enslaved many non-Asante West Africans. He profited from slavery and the slave trade."<sup>83</sup>

### **The Slave Trade and African Underdevelopment**

Although individual Africans and some African societies did profit from the slave trade, a reasonable case can be made that overall, the effect of the slave trade on Africa was detrimental. Inikori puts the case most succinctly: the diversion of much of the continent from the socio-economic path it might otherwise have taken, to become a supplier for the international slave trade, prevented its internal development. Inikori states: "the ultimate goal of socioeconomic development in organized societies is to raise societal capital to regularly produce goods and services, which the members wish to consume, in a steadily expanding quantity and steadily improving quality."<sup>84</sup> In part because of the slave trade, argues Inikori, Africa lacks the conditions that could create a capitalist market, producing an economic surplus to either be used by the producers themselves, or traded with outsiders for local goods. Inikori's argument has merit: internal markets and the creation of regional economies in Africa were severely disrupted

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<sup>83</sup> Kwame Anthony Appiah, "Understanding reparations: a preliminary reflection," p. 10, English manuscript provided to the author by Dr. Appiah. Published in French as "Comprendre les reparations: Une reflexion preliminaire," *Cahiers d'Etudes Africaines*, XLIV (1-2), 173-174, 2004, pp. 25-40.

<sup>84</sup> Joseph E. Inikori, "Slave Trade: Western Africa," in John Middleton, Editor in Chief, *Encyclopedia of Africa*, vol. 4, New York: Charles Scribner's Sons, 1997, p. 89.

by the externally oriented slave trade. The Atlantic slave trade also changed the political configuration of Africa, in some instances replacing a ruling administrative class with a warrior class whose sole purpose was slave-raiding.

Some scholars also argue that Africa was depopulated by the slave trade. Manning believes that from 1700 to 1850, the population of sub-Saharan Africa as a whole either stagnated or declined.<sup>85</sup> In other regions and at other times, emigration—whether voluntary or involuntary—of surplus population might have stimulated economic growth, as did the emigration of "surplus" British and European peasants to the Americas and Australasia in the nineteenth and early twentieth centuries. But much of Africa engaged in land-extensive, labor-intensive cultivation: Male workers were needed to clear the land, and female and child workers to cultivate it.

Populations densely centralized in cities also become markets for food and other goods produced in the countryside, thus providing an incentive for production of a surplus over the goods needed by peasants for their own subsistence. Centralized populations, as Inikori notes, also allow for economic, organizational, and intellectual specialization.<sup>86</sup> Such specialization permits individuals to exercise their creative capacities in ways that can stimulate economic growth. Thus depopulation either of the African continent as a whole, or of certain areas in it, can be assumed to have retarded African economic growth. On the other hand, notes Klein, large slave populations also might have enabled production of an agricultural surplus in some parts of Africa, and the development of a commercial elite that could live on the surplus produced by slaves.<sup>87</sup>

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<sup>85</sup> Patrick Manning, "The Slave Trade: the Formal Demography of a Global System," p. 121.

<sup>86</sup> Joseph E. Inikori, "Slave Trade: Western Africa", in John Middleton, ed., *Encyclopedia of Africa South of the Sahara*, vol. 4, New York: Charles Scribner's Sons, 1997.

<sup>87</sup> Martin Klein, "The Impact of the Atlantic Slave Trade on the Societies of the Western Sudan," p. 34.

It would be fair to say overall, then, that the slave trade seriously disrupted some African farming systems, markets, and polities. Reparationists also complain that while the slave trade underdeveloped Africa, it assisted the West to develop.

### **The Slave Trade and Western Development**

Many Reparationists assert that the West owes reparations to Africa because without African labor and resources, the West would never have been able to develop.

Several of our respondents referred directly to Walter Rodney's historical research, as Ali Mazrui frequently did in his written and oral work advocating reparations. Rodney, a Marxist historian, discussed what he called "the transfer of wealth from Africa to Europe," arguing that "Africa helped to develop Western Europe in the same proportion as Western Europe helped to underdevelop Africa."<sup>88</sup> Rodney quoted Karl Marx's famous description of the slave trade. "The turning of Africa into a commercial warren for the hunting of blackskins," observed Marx, "signalled the rosy dawn of the era of capitalist production."<sup>89</sup> In Rodney's view, while the West used African labor and resources in its own interests, it deliberately withheld knowledge and technology from Africans themselves. African chiefs and kings who attempted to buy technology from Europe to develop their own shipping and manufacturing industries were rebuffed, eventually converted by persuasion or force into slave-sellers. In the sixteenth century, for example, the king of Kongo, in the area now known as Angola, asked for "masons, priests, clerks [and] physicians" from Europe, to no avail.<sup>90</sup> At the

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<sup>88</sup> Walter Rodney, *How Europe Underdeveloped Africa*, London: Bogle-l'Ouverture Publications, 1972, pp. 84-85.

<sup>89</sup> Rodney, *How Europe Underdeveloped Africa*, p. 93.

<sup>90</sup> Rodney, *How Europe Underdeveloped Africa*, p. 90.

same time, British and French port cities such as Bristol, Liverpool, Nantes, and Bordeaux prospered because of the slave trade, as did several American port cities.<sup>91</sup> The Barclay brothers used profits from the slave trade to found Barclay's Bank, while the insurance firm, Lloyd's of London, was also set up with profits from the slave trade.<sup>92</sup>

Much of Rodney's history has been confirmed by other scholars since his death in 1980. But there is still much debate about how important the slave trade and slavery were in the actual development of the West. Rodney based his work in part on an earlier analysis by the Caribbean historian, Eric Williams, who argued that the development of British industry, shipping, banking, and insurance was dependent on profits from the slave trade. The industries that developed as a result of slavery, argued Williams, included cotton spinning, ironmongery, and sugar refining.<sup>93</sup>

David Landes, an economic historian, disagrees that the slave trade contributed significantly to Britain's industrial revolution. Landes argues that "Historians have tried to calculate the gains from slaving and find it far from a bonanza...[The] gains were simply not big enough in total, let alone that part that went back into trade and industry, to alter the path of British development."<sup>94</sup> In Landes' view, the industrial revolution in Britain would have taken place even had the trans-Atlantic slave trade not existed. "The crucial changes in energy...and metallurgy...were largely independent of the Atlantic system: so was the attempt initially to mechanize wool spinning."<sup>95</sup>

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<sup>91</sup> Rodney, *How Europe Underdeveloped Africa*, p. 95.

<sup>92</sup> Rodney, *How Europe Underdeveloped Africa*, p. 96.

<sup>93</sup> Eric Williams, *Capitalism and Slavery*, New York, NY: Capricorn Books, 1996, pp. 51-84, 126-34 and 154-68. For a summary of Williams' thesis and the debate it generated, see Joseph E. Inikori, *Africans and the Industrial Revolution in England: A Study in International Trade and Economic Development*, Cambridge: Cambridge University Press, 2002, pp. 1-7.

<sup>94</sup> David S. Landes, *The Wealth and Poverty of Nations: Why Some are so Rich and Some so Poor*, New York, NY: W.W. Norton, 1998, p. 120.

<sup>95</sup> David S. Landes, *The Wealth and Poverty of Nations: Why Some are so Rich and Some so Poor*, p. 121.

It is impossible to summarize, let alone assess, the enormous debate on the contribution of the African slave trade to Western development.<sup>96</sup> But one does not need to argue that without the slave trade, the West would not have developed at all. The slave trade and slavery certainly were not sufficient to start the process of Western industrialization. For example, despite having been active in the slave trade, Portugal and Spain did not become major industrial powers.<sup>97</sup> Perhaps the slave trade and slavery were not even necessary for Western development; the West might have developed later, or in different ways or on different trajectories, had there never been a slave trade.

But the historical fact is that the slave trade and slavery did contribute to Western development. In the early period many people made money from the trade in slaves; from the trade in slave-produced products such as sugar; and from the trade in consumer goods, such as rum and cotton textiles, sent to the coast of Africa, to be used to purchase slaves.<sup>98</sup> Nor was this profit confined to those directly implicated in the slave trade or slavery. In the northern United States, for example, shipbuilders such as the Brown family, who later endowed Brown University, profited from the slave industry, even if they did not themselves own slave ships.<sup>99</sup> The question is not whether the slave trade and slavery were indispensable for Western development. Rather, it is whether, indispensable or not, they contributed to that development. "Had there been no slavery, the West Indies trade would not have been as substantial. And had there been no substantial West Indies trade, there would have been much less trade for New England

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<sup>96</sup> For one such summary, see Hilary McDonald Beckles, *Slave Voyages: The Transatlantic Trade in Enslaved Africans*.

<sup>97</sup> David S. Landes, *The Wealth and Poverty of Nations: Why Some are so Rich and Some so Poor*, p.171.

<sup>98</sup> Ronald Bailey, "The Slave(ry) Trade and the Development of Capitalism in the United States," in Inokori and Engerman, *The Atlantic Slave Trade*, p. 235, n. 1.

<sup>99</sup> Robert Bailey, "The Slave(ry) Trade and the Development of Capitalism in the United States," pp. 222-25.

and the mainland colonies. The result would have been a much narrower field and a markedly slower pace for the economic movement of the colonies toward political independence and industrial capitalism in a developing United States."<sup>100</sup>

Inikori suggests that the slave trade provided the impetus for technological innovation in the cotton industry in England, which employed many thousands of newly proletarianized workers. To compete with cotton cloth from India, employers encouraged technological change. They then sold their cotton cloths both to African sellers of slaves on the coast of Africa, and to European buyers of slaves in the West Indies and Americas.<sup>101</sup> Similarly, in the United States, the Northern cotton textile industry relied heavily on raw cotton from, and textile sales to, the Southern market; the Northern, Southern, and later Western states of America were one integrated market, even though slavery itself was practiced only in the South.<sup>102</sup> Nevertheless, suggest Rosenberg and Birdzell, slavery was not necessary to the British cotton textile industry. The development of the cotton industry might merely have been slowed a little, had the British had to buy cotton from India, not grown with slave labor, rather than cotton produced by slave labor in the American South.<sup>103</sup>

Thus, the slave trade and slavery helped the West to develop, while at the same time either under-developing Africa or, at minimum, adversely altering the trajectory it might otherwise have taken in its own political and economic evolution. Some of the richest people in the Western world in the early twenty-first century descended from

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<sup>100</sup> Robert Bailey, "The Slave(ry) Trade and the Development of Capitalism in the United States," p. 216.

<sup>101</sup> Joseph E. Inikori, "Slavery and the Revolution in Cotton Textile Production in England," in Joseph E. Inikori and Stanley L. Engerman, *The Atlantic Slave Trade: Effects on Economies, Societies, and Peoples in Africa, the Americas, and Europe*, 1992, pp. 145-181.

<sup>102</sup> Ronald Bailey, "The Slave(ry) Trade and the Development of Capitalism in the United States."

<sup>103</sup> Nathan Rosenberg and L.E. Birdzell, Jr., *How the West Grew Rich: The Economic transformation of the Industrial World*, New York: Basic Books, 1986, p. 19.

those who profited from this trade. The Earl of Harewood, a cousin to Queen Elizabeth II, was one of the richest people in the entire United Kingdom. The history of the Harewoods was intimately tied to the slave trade. The Earl's eighteenth-century forebears, the Lascelles family, made a fortune selling sugar produced in the West Indies, and lending money to slave owners. When slave-owners defaulted on their loans, the Lascelles took over their plantations, eventually owning thousands of slaves, especially in Barbados. The family also invested in slave ships. And when the West Indian slaves were emancipated in 1838, the Lascelles/Harewood family received a "financial windfall: slave compensation." The British government paid it over 26 thousand pounds for the freedom of 1277 slaves.<sup>104</sup>

The wealth of the Harewood family raises the philosophical question of inter-generational justice. Do individuals whose inherited wealth derives originally from the slave trade or slavery owe reparations to Africa, or to some individuals of African descent? Should the Earl of Harewood pay reparations, and if so, to whom? Should he pay reparations to the government of Barbados, presumably representing the descendants of the slaves his ancestors owned? Should he commission a search of historical records to attempt to determine which individuals in Barbados are descendants of the people his ancestors owned? Should he perhaps, as James Walvin has suggested, make a lump-sum charitable donation to the black community near his estate in England, that community acting as a proxy for the entire community of blacks earlier exploited by his ancestors?<sup>105</sup> Or should he be permitted to keep all of his vast wealth, on the grounds that its origins, so long ago, are now irrelevant?

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<sup>104</sup> James Walvin, "The Colonial Origins of English Wealth: the Harewoods of Yorkshire," *Journal of Caribbean History*, vol. 39, no. 1, 2005, pp. 38-53. Quotation from p. 48.

<sup>105</sup> James Walvin, public lecture, Wilfrid Laurier University, Waterloo, Canada, February 8, 2006.

If we can show that the slave trade and slavery contributed in any way to the development of the West, does this constitute a moral case for transfer of wealth from the West to Africa as a form of reparation? Counter-factual histories both of Western development and African underdevelopment cannot be verified, but perhaps the historical record of exploitation of Africa is sufficient to persuade reasonable people of the ethical imperative to repair the material damages caused by the centuries-long slave trade. Against this, Landes suggests that the entire discussion of the contribution of the slave trade to Western development is rhetorical. "Third World countries and their sympathizers want to enhance the bill of charges against the rich, imperialist countries, the better to justify not only recriminations but claims for indemnity," he argues.<sup>106</sup> Indeed, much of this debate appears to be rhetorical, disregarding both international law and historical evidence. Some prominent Africans object very strongly to the focus on reparations from the West, when Africans themselves are responsible for many of their continent's present-day problems.

### **Reparations and International Relations**

The fact that Africans were badly treated by their own rulers or captors, or by Muslim buyers and owners elsewhere, does not absolve the West of its own responsibility. For many centuries, Westerners treated Africans as less than human, as expendable animals, as entities without souls whom it was permissible to rape, torture, mutilate, and murder. Whether or not, in retrospect, legally a crime against humanity, this was an ethical crime of enormous magnitude.

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<sup>106</sup> David S. Landes, *The Wealth and Poverty of Nations: Why Some are so Rich and Some so Poor*, pp.121-22.

The social movement for reparations to Africa for the slave trade is weak.<sup>107</sup> It is easy to regard it as a fringe social movement, one that has no influence in international circles. On the other hand, if, as many analysts believe, the world is entering a new political phase in which resentment of the West will increase, then inhabitants of the poorest areas may well be drawn more frequently to a violent, symbolic politics of despair. Perhaps, therefore, it is wise to take African views of past exploitation seriously. Even if Westerners have no personal ethical belief that past Western exploitation of Africa should be recognized, atoned and compensated for, they may find it sensible to acquiesce to some of the ideas and demands of the African reparations movement. If Africans are convinced that Westerners are not paying attention to them, then they are more likely to support anti-Western political movements, and less likely to have any trust in the West.

Yet trust is the basis for international relations, as it is for any interactions among human beings.<sup>108</sup> Trust is social glue, whether between individuals, groups, or large corporate entities.<sup>109</sup> As Govier states, "In trusting another person, we confidently expect that he or she will do what is right for us."<sup>110</sup> Such confidence is not always evident in relations between Westerners and Africans. Although individual Africans often trust individual Westerners, as collectivities, it often seems, Africans do not trust the West. For trust to emerge and to endure, it is sometimes necessary to acknowledge, and apologize for, past wrongs. If Africans repeatedly tell Westerners that they have been hurt, and are

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<sup>107</sup> Rhoda E. Howard-Hassmann and Anthony P. Lombardo, "Framing Reparations Claims: Differences Between the African and Jewish Social Movements for Reparations," *African Studies Review*, vol. 50, no. 1, April 2007, forthcoming.

<sup>108</sup> Trudy Govier, *Social Trust and Human Communities*, Montreal and Kingston: McGill-Queen's University Press. 1997, pp. 210-36.

<sup>109</sup> Trudy Govier, "An Epistemology of Trust," *International Journal of Moral and Social Studies*, Vol. 8, No. 2, p.156.

<sup>110</sup> Trudy Govier, " An Epistemology of Trust," p. 157.

still hurt, by past centuries of exploitation, then perhaps Westerners ought to take their stories seriously. The West's acceptance of African testimony, and acknowledgement of its partial responsibility for Africa's current tragic situation, may be a necessary component of trust-based relations between African and other nations.

Samuel Huntington has written of the possibilities of civilizational-based international conflicts in the twenty-first century.<sup>111</sup> Africa is currently too weak an actor on the world stage to be likely to instigate such a civilizational war. Nevertheless, some Muslim Africans quickly aligned themselves with Islamist extremists after the September 11, 2001 attacks on the United States; thus, they became part of the world-wide movement toward civilizational resentment of the West. Acknowledgment of the responsibilities of all parties for Africa's underdevelopment might help defuse such resentment; so, also, might an actual apology. This might also establish moral equivalence between the actors. Once Westerners (and other non-Africans) view Africans as equal partners in discussions of world affairs—in a moral, not merely a political, sense—more rational decision-making might occur.

For some analysts, though, trust does not imply mutual regard; it is, rather, merely an interest-based social relationship. Both sides enter a bargain in which they trust each other because each knows it is in the other's interest to adhere to that bargain.<sup>112</sup> In international relations, much trust is of this interest-based type. Between the former colonized and the former colonizing world, however, interest-based trust might not be

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111. Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996).

112. James S. Coleman, *Foundations of Social Theory*, Cambridge, MA: The Belknap Press of Harvard University Press, 1990, pp. 91-116.

adequate, the interests of the former colonizers not being sufficiently engaged in the rehabilitation of the former colonies. There needs also to be a moral dimension to trust. In the African case, acknowledgment by the West of its moral responsibility for the trans-Atlantic slave trade might improve the chances of building an international moral community in which both sides trust each other in a relationship based on solidarity, not merely on interest. However, such trust is unlikely to emerge only from acknowledgment of past wrongs and apologies for them. If Africans are to take Western apologies seriously, the West must also provide material compensation for its past exploitation of the continent.

From the point of view of some embittered or angry Africans, perhaps such an international moral community is not a goal for which it is worth striving. Why, after so many centuries of slave-trading and exploitation, should any African feel part of a moral community that includes the West? One might wish to dismiss those Africans who reject an international moral community as merely those who profit from promotion of an ideology of victimhood, or a culture of complaint.<sup>113</sup> Such politics of resentment seem to permeate much of the international discussion of relations between the West and “the Rest”. Social movements for compensation, whether it be to African-Americans, to Africans, or to any other group, are dismissed by some commentators as ways to perpetuate a group’s underprivileged status instead of “getting on with it,” availing a community of the opportunities now existing for anyone willing to work hard.<sup>114</sup>

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113. Robert Hughes, *Culture of Complaint: A Passionate Look into the Ailing Heart of America*, New York, NY: Warner Books, 1993.

114. David Horowitz, “Ten Reasons Why Reparations for Blacks is a Bad Idea *for Blacks* - and Racist Too”, FrontPageMagazine.com, <http://www.frontpagemag.com/Articles/ReadArticle.asp?ID=1153>, January 3, 2001, Last Accessed: February 4, 2007. Italics in original title.

It would seem that the present cry for acknowledgment, apology, and financial compensation is the product of a developing social movement among persons of African origin, whether in the Diaspora in the West, or in the African continent itself. Social movements do not come from nowhere: they include interpreters who name injustices and define the sought-for solutions. A cynic might reject such namers of past injustices merely as moral entrepreneurs, carving places for themselves in the international community through invention of claims that did not previously exist. A realist, however, might wish to take into account that the moral entrepreneurs of today are sometimes also present and future political leaders. If politics is an art, then in the twenty-first century it is, in part, the art of grievance. The Western world takes seriously the grievances of some people within its own boundaries. It ought to take equally seriously the grievances of those outside its boundaries whom it previously conquered and exploited. Global political and economic relations in the twenty-first century will be more peaceful if the idea of global justice is accepted by all actors. The historical hypotheses on which claims for reparations are based are certainly questionable, but contemporary law, philosophy, and morality suggest universal responsibility to ameliorate suffering, regardless of who is suffering where, and regardless of the historical or contemporary causes of that suffering.