

**The Ethics of Consistency:  
American Jewish Leadership for Reparations in the 20<sup>th</sup> Century  
And Why African Americans Deserve No Less Today**

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## **ABSTRACT**

Through its civic and religious organizations, the American Jewish community is debating whether to support cash reparations to African Americans for the United States' history of slavery. Jewish thought leaders who favor reparations have repeatedly argued that ancient Jewish texts, including the Bible, the Talmud and Medieval Codes, demand our support today.

That text-based argument is accurate. But another argument, rooted in contemporary history, is equally vital and the basis of this thesis. Over the past 100 years, American Jewry has endorsed reparations repeatedly for oppressed communities and must not delay its activism for African-American reparations by viewing them as an unresolved matter.

Starting in the 1930s, American Jews were at the forefront of winning reparations for Native Americans whose land was stolen in the creation of the United States. Starting in the 1940s, Jews fought for reparations for Japanese Americans whom the Roosevelt Administration forced into internment camps during World War II. And from the 1940s through today, American Jews have led the way for reparations for European Jewish refugees and their families devastated by the Holocaust.

In presenting details of how American Jews led those battles, I urge today's Jewish leaders to recognize that not supporting cash reparations for African Americans would constitute a shocking departure from Jewish advocacy for oppressed communities.

The descendants of slaves certainly deserve no less than the others. For us as Jews, the ethics of consistency demand no less of ourselves.

### **ESSAY**

In June 2014, *The Atlantic* published a sweeping historical treatise by Ta-Nehisi Coates on the need for the United States government to pay monetary reparations to the present-day descendants of African-American slaves.<sup>1</sup> Coates said he wanted people to stop laughing at the idea of reparations,<sup>2</sup> which had gained minimal traction in mainstream American political thought.

With "The Case for Reparations," he achieved far more. Winning the George Polk Award for Commentary<sup>3</sup> and a prize from New York University for writing the "Top Work of Journalism

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<sup>1</sup> Ta-Nehisi Coates, "The Case for Reparations," *The Atlantic*, June 2014,

<https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>

<sup>2</sup> Eric Levitz, "Ta-Nehisi Coates Is an Optimist Now," *New York Magazine*, March 17, 2019,

<https://nymag.com/intelligencer/2019/03/ta-nehisi-coates-race-politics-2020-elections.html>

<sup>3</sup> Mary Carole McCauley, "Baltimore-born Ta-Nehisi Coates earns Polk Award for commentary," *Baltimore Sun*, February 17, 2015, <https://www.baltimoresun.com/entertainment/arts/bs-ae-coates-polk-20150217-story.html>

of the Decade,”<sup>4</sup> Coates ignited a sea change of opinion among social justice leaders, including Jewish social justice leaders, on a subject most had been afraid to touch.

Before Coates’ article, legislation in Congress to advance reparations had been stalled for decades. Congressman John Conyers had introduced H.R. 40, a bill to create a federal study commission, in every session of Congress since the 101<sup>st</sup> in 1989.<sup>5</sup> Though it committed not a cent to reparations, H.R. 40 had never made it out of committee.<sup>6</sup> No candidate running for President in either party had endorsed the bill; during his 2008 campaign for President, Barack Obama opposed reparations outright.<sup>7</sup> And though the NAACP had endorsed H.R. 40 in 1993,<sup>8</sup> few non-African-American organizations were willing to stand in solidarity.

Reparations might as well have been the equivalent of proposing marriage equality at Ozzie and Harriet’s dinner table in the 1950s.

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<sup>4</sup> Margaret Sullivan, “Here’s a list of the 10 greatest works of journalism of the past . Care to argue about it?” *The Washington Post*, October 14, 2020, [https://www.washingtonpost.com/lifestyle/media/best-journalism-decade-top-10/2020/10/14/d4cbe0e-0d6e-11eb-8074-0e943a91bf08\\_story.html](https://www.washingtonpost.com/lifestyle/media/best-journalism-decade-top-10/2020/10/14/d4cbe0e-0d6e-11eb-8074-0e943a91bf08_story.html)

<sup>5</sup> Donna M. Owens, “Veteran Congressman Still Pushing for Reparations in a Divided America,” *NBC News*, February 20, 2017, <https://www.nbcnews.com/news/nbcblk/rep-john-conyers-still-pushing-reparations-divided-america-n723151>

<sup>6</sup> Richard Gonzales, “Congressional Hearing On Slavery Reparations Set For Wednesday,” *NPR*, June 18, 2019, <https://www.npr.org/2019/06/18/733880321/congressional-hearing-on-slavery-reparations-set-for-wednesday>

<sup>7</sup> Eugene Scott, “What Obama actually said in his rejection of reparations,” *The Washington Post*, July 9, 2019, [washingtonpost.com/politics/2019/07/09/what-obama-actually-said-his-rejection-reparations/](https://www.washingtonpost.com/politics/2019/07/09/what-obama-actually-said-his-rejection-reparations/)

<sup>8</sup> “Reaffirming Reparations H.R. 40,” NAACP, accessed January 7, 2023, <https://naACP.org/resources/reaffirming-reparations-hr-40>

Then, as *The New Yorker* described it, Coates' article changed the world.<sup>9</sup> "The Case for Reparations" set off a chain reaction in which 16 Democratic Presidential candidates in 2020,<sup>10</sup> along with more than 350 organizations — including Reconstructing Judaism, the Union for Reform Judaism, the National Council of Jewish Women, and the Jewish social justice organization Bend the Arc — would come to endorse the study of reparations or more.<sup>11</sup> And in April 2021, the House Judiciary Committee advanced H.R. 40, voting to create a commission to consider reparations for slavery.<sup>12</sup>

What happened? Coates had countered the argument that slavery was too far in the past to hold the United States and its citizens accountable today. He made the case that slavery, though abolished by the 13th Amendment in 1865, never stopped harming African Americans. In *The Atlantic*, he drew a direct line from slavery to late 19th Century Jim Crow laws enshrining "separate but equal" legal and social institutions, to early 20th Century racial discrimination in New Deal programs such as public housing, social security and unemployment insurance, to the mid-20<sup>th</sup> Century struggle against unjust housing practices, even when backed by Title III of the G.I. Bill following World War II.<sup>13</sup>

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<sup>9</sup> "Ta-Nehisi Coates Revisits the Case for Reparations," *New Yorker*, June 10, 2019,

<https://www.newyorker.com/news/the-new-yorker-interview/ta-nehisi-coates-revisits-the-case-for-reparations>

<sup>10</sup> "Reparations," *Politico*, last modified August 8, 2019, <https://www.politico.com/2020-election/candidates-views-on-the-issues/economy/reparations/>

<sup>11</sup> "At Start of Black History Month, Over 350 Groups Urge US House Leadership To Back H.R. 40," Human Rights Watch, February 4, 2022, <https://www.hrw.org/news/2022/02/04/start-black-history-month-over-350-groups-urge-us-house-leadership-back-hr-40>

<sup>12</sup> Nicholas Fandos, "House Panel Advances Bill to Study Reparations in Historic Vote," *The New York Times*, last modified September 25, 2021, <https://www.nytimes.com/2021/04/14/us/politics/reparations-slavery-house.html>

<sup>13</sup> Coates, "Case for Reparations."

Discrimination in civil and voting rights in recent years has extended the through-line. Though the Civil Rights Act of 1964 and the Voting Rights Act of 1965 provided effective remedies, potential rollbacks by a more conservative U.S. Supreme Court, including through its weakening of Affirmative Action,<sup>14</sup> would bring back aftershocks of slavery to the present day.

Invoking Coates' article as a launching pad, a number of Jewish writers have focused on the support in our ancient texts – including the Bible, the Talmud and Medieval Codes – for reparations for African Americans.<sup>15</sup> These writers argue that our ancient texts compel the support of American Judaism today. Well-intentioned as it is, that position misses the point.

American Judaism does not need to endorse cash reparations as some newly considered item on the community's agenda. During the 20<sup>th</sup> century, the American Jewish community led the way for reparations three times on behalf of communities devastated by discrimination and genocide at the hands of government.

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<sup>14</sup> Adam Liptak, "Supreme Court Seems Ready to Throw Out Race-Based College Admissions," *The New York Times*, last modified November 1, 2022, <https://www.nytimes.com/2022/10/31/us/supreme-court-harvard-unc-affirmative-action.html>

<sup>15</sup> Lena Beth Schneider, "The Jewish Case for Reparations," *Hey Alma*, April 1, 2021, [heyalma.com/the-jewish-case-for-reparations/](http://heyalma.com/the-jewish-case-for-reparations/)

American Jews were pivotal in winning reparations for:

- Native Americans<sup>16</sup> whose land was stolen in the creation of the United States;
- Japanese Americans whom the Roosevelt Administration forced into internment camps during World War II; and
- European Jewish refugees and their families in the aftermath of the Holocaust.

As I present the Jewish history behind each of these three battles, I challenge the reader to ask: Why should the position of American Jewry on cash reparations be considered anything less than a settled matter today? And why should American Jewish leadership be less passionate in insisting on cash reparations for African Americans today than it was for other oppressed communities over the past 100 years?

### **American Jewish leadership for reparations to Native Americans**

The advancement of justice for Native Americans owes as much to what the Jewish community refused to do as what the community actually did, with equally positive impact.

Throughout most of our nation's history, the federal government and several states treated Native Americans as savages to be assimilated into the white European culture from which the United States had emerged. Federal and state governments partnered with Christian

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<sup>16</sup> In this paper I use the term "Native American" even though older sources use "American Indians" or simply "Indians." However, I leave "American Indian" or "Indian" as is when those terms are within a quote from a source or are part of the title of a book, article, or organization's name.

missionaries, either actively or with the governments' silent permission, to convert Native Americans away from their indigenous religions to Christianity.<sup>17</sup> Governments looked the other way as churches and missionaries took Native American children from their parents to convert and "civilize" the children.<sup>18</sup> Americanization and Christianization of Native Americans often became indistinguishable.

Cultural and religious abuse of Native Americans remained largely unchecked from our country's colonial days until the 1930s, when the federal government began a decades-long process of recognizing tribal sovereignty and cultural independence.<sup>19</sup> This progress culminated in the American Indian Religious Freedom Act of 1978, which declared it the policy of the United States to protect the rights of Native American, Native Alaskan and Native Hawaiian peoples to believe, express, and exercise their traditional religions.<sup>20</sup>

Stunning that such a statute was needed 187 years after the ratification of the First Amendment that promised freedom of religion for all.

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<sup>17</sup> Peter Smith, "US report details church-state collusion on Native schools," *Associated Press*, May 14, 2022, <https://apnews.com/article/canada-religion-education-native-americans-cultures-87a09745351c02236b99e2955785e1f7>

<sup>18</sup> Willard Hughes Rollings, "Indians and Christianity," in *A Companion to American Indian History*, ed. Philip J. Deloria and Neal Salisbury (Malden, Massachusetts: Blackwell Publishing, 2004), 129.

<sup>19</sup> Dalia Tsuk Mitchell, *Architect of Justice: Felix S. Cohen and the Founding of American Legal Pluralism* (Ithaca, New York: Cornell University Press, 2007), 4.

<sup>20</sup> Dennis Zotigh, "Native Perspectives on the 40th Anniversary of the American Indian Religious Freedom Act," *Smithsonian Magazine*, November 30, 2018, <https://www.smithsonianmag.com/blogs/national-museum-american-indian/2018/11/30/native-perspectives-american-indian-religious-freedom-act/>



Judaism, however, views proselytizing others to be antithetical to its religious and cultural practice. Native American tribes had no reason to suspect ulterior motives by the Jewish social justice leaders who sought to be appointed, and were, by the Roosevelt Administration to craft what became known as the “Indian New Deal” in the 1930s.<sup>21</sup>

Indeed, the leaders behind the Indian New Deal, a series of laws designed to increase tribal sovereignty and economic prosperity for Native Americans – including through federal reparations for stealing Native American land – read like a game of high-powered Jewish Geography.

The who’s who began with Louis Brandeis, who entered Harvard Law School in 1875, when he was just 18, and graduated with the highest GPA in the school’s history.<sup>22</sup> Remaining in Boston to practice law, Brandeis kept up his Harvard connections by tutoring undergraduates and law students.<sup>23</sup> He became close with Felix Frankfurter, who, like Brandeis, graduated top of his class from Harvard Law School.<sup>24</sup>

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<sup>21</sup> David S. Koffman, *The Jews’ Indian: Colonialism, Pluralism, and Belonging in America* (New Brunswick, New Jersey: Rutgers University Press, 2019), 139.

<sup>22</sup> Paul Moreno, “Justice Brandeis and the Birth of Liberal Judicial Activism,” *Public Discourse*, January 28, 2016, [thepublicdiscourse.com/2016/01/16324/](https://thepublicdiscourse.com/2016/01/16324/)

<sup>23</sup> Edward White, “The Brandeis Effect,” review of *Louis D. Brandeis: A Life*, by Melvin I. Urofsky, *The Weekly Standard*, October 12, 2009, <https://www.washingtonexaminer.com/weekly-standard/the-brandeis-effect>

<sup>24</sup> Charles S. Dameron, “‘Democratic Justice’ Review: Felix Frankfurter’s Double Act,” review of *Democratic Justice: Felix Frankfurter, the Supreme Court, and the Making of the Liberal Establishment*, by Brad Snyder, *Wall Street Journal*, September 9, 2022, <https://www.wsj.com/articles/democratic-justice-book-review-felix-frankfurters-double-act-11662732111>

Frankfurter, moving quickly from student to professor at Harvard Law, developed a friendship with his own star student Nathan Margold.<sup>25</sup> Frankfurter successfully recommended Margold for a number of positions in his career, including as special counsel to the NAACP, where Margold wrote the strategy that eventually led to the integration of public schools in the South;<sup>26</sup> and then as Solicitor at the U.S. Department of the Interior, where Margold took an interest in the plight of Native Americans.<sup>27</sup>

Before attending Harvard Law, Margold had been an undergraduate at City College of New York, where he became a protégé and family friend of his professor Morris Cohen, a nationally prominent Social Democrat who taught economic social justice and served as editor of the journal *Jewish Social Studies*.<sup>28</sup> Through the Cohen family connection, Margold hired Cohen's son, Felix Cohen, as Margold's senior advisor in the Department of the Interior, where Felix became the architect of the Indian New Deal.<sup>29</sup> Felix, it turned out, had been named after Justice Frankfurter.<sup>30</sup>

Felix Cohen could have held his own with the luminaries who came before him.

Receiving a law degree from Columbia, he also earned an M.A. and Ph.D. in philosophy from

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<sup>25</sup> John Fabian Witt, "The Justice Who Wanted the Supreme Court to Get Out of the Way," *New Republic*, August 26, 2022, <https://newrepublic.com/article/167253/justice-wanted-supreme-court-get-way>

<sup>26</sup> Witt, "The Justice."

<sup>27</sup> Alice Beck Kehoe, *A Passion for the True and Just: Felix and Lucy Kramer Cohen and the Indian New Deal* (Tucson, Arizona: University of Arizona Press, 2014), 57.

<sup>28</sup> Kehoe, *A Passion*, 56.

<sup>29</sup> Mitchell, *Architect of Justice*, 63.

<sup>30</sup> Mitchell, *Architect of Justice*, 17.

Harvard.<sup>31</sup> While studying at Columbia, he met his future wife, Lucy Kramer Cohen, a graduate student on campus, who had a similar upbringing in Jewish activist royalty.<sup>32</sup>

Lucy's parents were active in the progressive *Haskalah* movement, the Jewish Enlightenment, which helped shape her view of the world.<sup>33</sup> Taking heart to the suffering of Native Americans, she became fluent in the distinct cultures and economics of Native American tribes, including through many visits, and developed relationships with Native American leaders.<sup>34</sup>

Other Jewish activists for Native American justice, particularly those Lucy had heard about who lived closer to Native American tribes in the western United States, had ignited her passion. And when Jews out west stood up for Native Americans, they stood out as Jews where not so many lived.

As early as 1860, an Oregon state official wrote to the U.S. Office of Indian Affairs about "one Hebrew (who was) constantly annoying me by talking to the Indians and telling them not to go" from their tribal lands.<sup>35</sup>

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<sup>31</sup> "Felix S. Cohen papers," Yale University, accessed January 8, 2023, <https://archives.yale.edu/repositories/11/resources/1232>

<sup>32</sup> Patricia Sullivan, "Lucy Cohen; Helped Write Law Treatise," *The Washington Post*, January 5, 2007, <https://www.washingtonpost.com/wp-dyn/content/article/2007/01/04/AR2007010401836.html>

<sup>33</sup> Kehoe, *A Passion*, 62.

<sup>34</sup> Kehoe, *A Passion*, 74.

<sup>35</sup> Koffman, *The Jews' Indian*, 140.

In the late 1920s and early 1930s, several Jewish activists were standing up for Native American causes. This includes Leo Rabinowitz, director of the American Indian Defense Organization of Central and Northern California, along with the organization's regional treasurers, Max Rosenberg and Fred Stein.<sup>36</sup> At the national level, the ACLU's general counsel Morris Ernst made Native American justice a tenet of the ACLU's work. In January 1933, the ACLU sponsored an all-day event on Native American rights in Washington and lobbied for the 1934 Indian Reorganization Act.<sup>37</sup>

Taking this activism to a new level, Lucy Cohen sparked Felix's interest in justice for Native Americans, and brought their voices to Felix as he developed the Indian New Deal.<sup>38</sup>

The heart of the Indian New Deal was the Indian Reorganization Act, enacted in 1934. Written largely by Felix Cohen with input from Lucy Cohen and Nathan Margold,<sup>39</sup> the law appropriated \$2 million a year for the acquisition of land for Native Americans.<sup>40</sup> In 1946, another innovation led by Felix Cohen,<sup>41</sup> the Indian Claims Commission, empowered Native American tribes to sue the U.S. government in federal courts for damages.

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<sup>36</sup> Koffman, *The Jews' Indian*, 141.

<sup>37</sup> Samuel Walker, *In Defense of American Liberties: A History of the ACLU*, 2<sup>nd</sup> ed. (Carbondale, Illinois: Southern Illinois University Press, 1999), 88.

<sup>38</sup> "Lucy Kramer Cohen: Advocate for Native Americans, Public Health Worker," Jewish Women's Archive, accessed January 8, 2023, <https://jwa.org/weremember/cohen-lucy>

<sup>39</sup> Mitchell, *Architect of Justice*, 4.

<sup>40</sup> Daniel Cobb, "The Impact of the Indian Reorganization Act," *Wondrium*, September 24, 2021, <https://www.wondriumdaily.com/the-impact-of-the-indian-reorganization-act/>

<sup>41</sup> Mitchell, *Architect of Justice*, 204.

The laws of the Indian New Deal returned around two million acres of land to Native American tribes.<sup>42</sup> Thanks to American Jewish leadership, the United States had entered a whole new era of reparations.

But what motivated the Jewish leaders behind the Indian New Deal?

Neither of the Cohens were particularly religious.<sup>43</sup> Nor were Justices Brandeis or Frankfurter.<sup>44</sup> Their religion was social justice Judaism, a largely secular practice whose highest value was upholding Judaism's universalist commitment to be a light unto the nations.

Alice Beck Kehoe, professor emerita of anthropology at Marquette University and a specialist in Native American history and culture, is a Jewish activist whose father worked on the New Deal in the Roosevelt Administration.<sup>45</sup> In her 2014 book *A Passion for the True and Just: Felix and Lucy Kramer Cohen and the Indian New Deal*, Kehoe writes that Margold and Felix and Lucy Cohen believed that providing reparations and government programs to Native Americans was a *mitzvah* – not in the colloquial sense of a good deed, but in the truest sense of a commandment to them as Jews.

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<sup>42</sup> Lina Mann, "Self Determination Without Termination," White House Historical Association, November 3, 2021, <https://www.whitehousehistory.org/self-determination-without-termination>

<sup>43</sup> Kehoe, *A Passion*, 62.

<sup>44</sup> Leonard Baker, *Brandeis and Frankfurter: A Dual Biography* (New York, New York: Harper & Row, 1984), 71, 76.

<sup>45</sup> Kehoe, *A Passion*, xii.

Kehoe writes: "Felix Cohen was imbued with the liberal Judaism of his parents, friends, and CCNY fellow alumni. Like them, he felt a mitzvah to do justice. Like them, he felt justice might best be realized through social democratic governance principles. The call from Nathan Margold to come to Washington in 1933 was an opportunity to fulfill a mitzvah. He and Lucy brought to Washington sharp and well-schooled minds, warm personalities that drew people to them, energy and gratification in work, and above all, passion for the true and just carried down through two millennia of rabbinic disputation."<sup>46</sup> Morris Cohen had believed the same and taught as much in his secular classroom and to his young son Felix at home.<sup>47</sup>

In the Spring 1945 edition of *The American Indian*, Cohen wrote that Native Americans' self-determination and human dignity had been damaged by three myths perpetuated through the white majority oppression.<sup>48</sup> Given the timing of the article, published during the Holocaust and just three years before Israel's independence, it would be hard not to see the parallels Cohen was making between Native Americans and Jews under who longed for self-determination in their ancestral homeland as a matter of survival.

The first myth, Cohen wrote, was the "Myth of Moral Progress," by which whites asserted they had the right to persecute Native Americans to move the United States forward for the greater good. The second myth was the "Myth of the Vanishing Indian," which

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<sup>46</sup> Kehoe, *A Passion*, 194.

<sup>47</sup> Mitchell, *Architect of Justice*, 16.

<sup>48</sup> Stephen Haycox, "Felix S. Cohen and the Legacy of the Indian New Deal," *Yale University Library Gazette* 68, no. 3/4 (April 1994): 142, <https://www.jstor.org/stable/40859096>

portrayed Native Americans as an increasingly extinct race not even worth rescuing. And the third myth was the "Myth of Indian Nomadism" by which Native Americans had never lived on any land permanently and thus deserved no land of their own.<sup>49</sup>

Just as Brandeis, Frankfurter<sup>50</sup> and Margold<sup>51</sup> had faced Antisemitism during their careers, so, too, did Felix Cohen.<sup>52</sup> After he masterminded much of the legislation and regulations behind the Indian New Deal, Cohen became the director of the Indian Law Survey, a joint project of the U.S. Departments of Justice and the Interior to compile a definitive resource book for all the federal laws and rights relevant to Native Americans.<sup>53</sup>

Far more than another humdrum government publication, the Indian Law Survey was the ultimate tool of Native American empowerment. No longer would an inaccessible hodgepodge of resources prevent Native American leaders from maximally pursuing their rights under the law. The resulting book, published in 1941 as *The Handbook of Federal Indian Law*, has been updated throughout the years and remains the definitive work in its field.<sup>54</sup>

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<sup>49</sup> Haycox, "Felix S. Cohen," 142.

<sup>50</sup> Baker, *Brandeis and Frankfurter*, 66, 86.

<sup>51</sup> Kehoe, *A Passion*, 121.

<sup>52</sup> Mitchell, *Architect of Justice*, 63.

<sup>53</sup> Kevin K. Washburn, "Felix Cohen, Anti-Semitism and American Indian Law," *American Indian Law Review* 33, no. 2 (2008/2009): 583, <https://www.jstor.org/stable/40344831>

<sup>54</sup> Sidney L. Haring, "Indian Law, Sovereignty, and State Law: Native People and the Law," in *A Companion to American Indian History*, ed. Philip J. Deloria and Neal Salisbury (Malden, Massachusetts: Blackwell Publishing, 2004), 443.

That the book was published at all is testament to Cohen in the Department of the Interior and among Native American tribes. Interior had seconded Cohen and his staff to work in the Department of Justice for a year pursuant to the departments' joint oversight of the project.<sup>55</sup> Midway into Cohen's tenure at the Department of Justice, Assistant Attorney General Norman Littell, who was not Jewish, fired Cohen and his staff from the department and announced that the handbook would not be published.<sup>56</sup>

Cohen returned to the Department of the Interior, whose leaders' strong support of him allowed him to finish and publish the book there.<sup>57</sup> So what happened at the Department of Justice? Some believed Cohen went too far for the Department in his desire to empower Native Americans.<sup>58</sup> But others, including Cohen himself, believed he and his staff were fired because they were Jews.

Indeed, in personal correspondence, General Littell wrote that Antisemitism in the United States was attributable not only to Nazi propaganda, but also, in Littell's exact words, to "the merits"; he wrote that "the Jew, recently emancipated from the ghetto and political restrictions is, undoubtedly, a shrewder, more astute, and less restrained businessman than the ordinary Anglo-Saxon."<sup>59</sup>

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<sup>55</sup> Washburn, "Felix Cohen," 599.

<sup>56</sup> Jill E. Martin, "'A Year and a Spring of My Existence': Felix S. Cohen and the Handbook of Federal Indian Law," *Western Legal History* 8, no. 1 (Winter/Spring 1995): 46, <https://www.njchs.org/wp-content/uploads/8.1.pdf>

<sup>57</sup> Martin, "'A Year,'" 55.

<sup>58</sup> Kehoe, *A Passion*, 92.

<sup>59</sup> Washburn, "Felix Cohen," 602.



And who, pray tell, were the staffers Littell fired besides Felix Cohen? Abraham Glasser, Bernard Levinson, Theodore Spector and Jacob Wasserman.<sup>60</sup>

The Antisemitism didn't stop there. U.S. Secretary of the Interior Harold Ickes, a celebrated progressive and close friend of President Roosevelt's whom the President made the point person for much of the New Deal, refused to appoint Cohen as solicitor when Nathan Margold left the Department. Ickes, in a diary entry dated July 19, 1942, wrote that he passed on Cohen "not because [Cohen] isn't a first-rate lawyer, but because of his personality and his bad public relations. Moreover, I had decided not to appoint a Jew if I could avoid it."<sup>61</sup>

One of Felix Cohen's biographers, George Washington University law and history professor Dalia Tsuk Mitchell, believes Cohen's resolve to fight for Native Americans deepened because of the Antisemitism he endured.<sup>62</sup>

On multiple occasions, in fact, Cohen invoked the persecution of Jews when he spoke about the persecution of Native Americans. In 1948, Cohen told a Jewish audience that a new federal law appropriating Native American timber in Alaska, the Tongass Timber Act, was part of "Alaska's Nuremberg Laws."<sup>63</sup>

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<sup>60</sup> Washburn, "Felix Cohen," 601.

<sup>61</sup> Washburn, "Felix Cohen," 603.

<sup>62</sup> Mitchell, *Architect of Justice*, 137.

<sup>63</sup> Koffman, *The Jews' Indian*, 149.

And in an article in the *Yale Law Journal* in 1953, "The Erosion of Indian Rights," Cohen wrote: "The Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith."<sup>64</sup>

Conceived by American Jews, The Indian New Deal and its post-World War II progeny paid out roughly \$1.3 billion to Native Americans by the time the Indian Claims Commission dissolved in 1978.<sup>65</sup> The amount might have been exponentially larger had Felix Cohen not died from lung cancer in 1953 at age 46.<sup>66</sup>

### **American Jewish leadership for reparations to Japanese Americans**

In February 1942, two months after Japan attacked Pearl Harbor and plunged Americans into a maelstrom of anti-Japanese prejudice, President Roosevelt signed an executive order to relocate by force 120,000 Japanese Americans into internment camps, euphemistically called "relocation centers," in Arkansas, Arizona, California, Colorado, Idaho, Utah, and Wyoming.<sup>67</sup>

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<sup>64</sup> Washburn, "Felix Cohen," 604.

<sup>65</sup> Erin Blakemore, "The Thorny History of Reparations in the United States," *History*, last modified August 29, 2019, <https://www.history.com/news/reparations-slavery-native-americans-japanese-internment>

<sup>66</sup> Paul C. Rosier, "The Association on American Indian Affairs and the Struggle for Native American Rights, 1948–1955," *Princeton University Library Chronicle* 67, no. 2 (Winter 2006): 386, [https://www.jstor.org/stable/10.25290/prinunivlibrchro.67.2.0366#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/10.25290/prinunivlibrchro.67.2.0366#metadata_info_tab_contents)

<sup>67</sup> "Japanese American Relocation," United States Holocaust Memorial Museum, accessed January 9, 2023, <https://encyclopedia.ushmm.org/content/en/article/japanese-american-relocation>

The role of the American Jewish community in fighting for interned Japanese Americans can be divided into two eras. During the internment, American Jewish organizations largely did nothing, and in some ways tacitly endorsed President Roosevelt's order. After the liberation, these same organizations had a dramatic change of heart and were in the forefront of the right for reparations.

Even before the Japanese attack on Pearl Harbor in December 1941, Japan was an ally of Germany and thus by extension, an adversary of the United States. The racist demonization of Japanese Americans throughout much of American society had already begun; the Pearl Harbor attack turned it into hysteria.<sup>68</sup> Gaining traction in the press were baseless conspiracy theories claiming that Japanese Americans were informants of the Japanese government for the Pearl Harbor attack.<sup>69</sup> Westbrook Pegler, a widely syndicated conservative columnist, wrote: "The Japanese in California should be under armed guard to the last man and woman right now and to hell with habeas corpus until the danger is over."<sup>70</sup>

Though calls to remove Japanese Americans from the West Coast reached a fever pitch, Secretary of War Henry Stimson, Attorney General Francis Biddle and even FBI Director J. Edgar

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<sup>68</sup> Eric L. Muller, *Free to Die for Their Country: The Story of the Japanese American Draft Resisters in World War II* (Chicago, Illinois: University of Chicago Press, 2001), 17.

<sup>69</sup> Moon-Ho Jung, "Is it possible to condemn one empire without upholding another?" *The Washington Post*, May 22, 2022, <https://www.washingtonpost.com/outlook/2022/05/22/is-it-possible-condemn-one-empire-without-upholding-another/>

<sup>70</sup> "Japanese American Incarceration," National WWII Museum, accessed January 9, 2023, <https://www.nationalww2museum.org/war/articles/japanese-american-incarceration>

Hoover believed such an action was neither necessary nor constitutional. But military leaders other than Stimson felt differently, and President Roosevelt caved.<sup>71</sup>

Among national Jewish organizations, only the National Council of Jewish Women took a public stance against the internment.<sup>72</sup> The other Jewish powerhouses at the time – the Anti-Defamation League, the American Jewish Committee and the American Jewish Congress – were silent even behind the scenes.<sup>73</sup>

But in the months leading up to President Roosevelt’s revocation of Japanese-American internment in January 1945, American Jewish organizations spoke out clearly against both the internment and mistreatment of Japanese Americans throughout U.S. society. In 1954, the American Jewish Committee issued a report, “American Security and Freedom,” that boldly endorsed “compensating person[s] held wrongfully” in Japanese-American internment camps.<sup>74</sup>

Still, what had delayed American Jewish organizations from speaking out?

Jewish organizations neither wanted to alienate the Roosevelt Administration, which was leading the charge against Nazi Germany, nor stoke further Antisemitism among Americans,

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<sup>71</sup> Muller, *Free to Die*, 23.

<sup>72</sup> Naomi Sandweiss, “Inside the Camps,” *Tablet*, April 26, 2021, [tabletmag.com/sections/community/articles/inside-japanese-internment-camps](https://www.tabletmag.com/sections/community/articles/inside-japanese-internment-camps)

<sup>73</sup> Cheryl Greenberg, “Black and Jewish Responses to Japanese Internment,” *Journal of American Ethnic History* 14, no. 2 (Winter 1995): 4, <https://www.jstor.org/stable/27500003>

<sup>74</sup> Maurice J. Goldbloom, *American Security and Freedom* (Boston, Massachusetts: Beacon Press, 1954), 51.

who might perceive Jews as opposing a popular wartime President, even if only on the issue of Japanese-American internment.<sup>75</sup>

Antisemitism during the war had already risen. In 1940, for example, the FBI arrested more than a dozen members of the Christian Front, a right-wing vigilante group, for planning to assassinate Jewish members of Congress and bomb the offices of Jewish newspaper the *Forward*.<sup>76</sup> Slightly more than half of all Americans surveyed in 1942 believed Jews had “too much influence,” and the National Opinion Research Center released a report revealing the “feeling against the Jews is stronger than (against) any other minority group in the United States.”<sup>77</sup>

But make no mistake, Jewish heroes for justice for interned Japanese Americans did exist in real time. In July 1944, Judge Louis Goodman, a federal judge in the U.S. Northern District of California, heard the case of 26 Japanese Americans who resisted being drafted into the U.S. army while interned at the Tule Lake Segregation Center – located in less populated inland California on the state’s northern border with Oregon. The Roosevelt Administration had begun drafting people at several internship camps, and many federal judges sided with the Administration’s right to do so.<sup>78</sup>

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<sup>75</sup> Greenberg, “Black and Jewish,” 23-24.

<sup>76</sup> David Greenberg, “America’s Forgotten Pogroms,” *Politico Magazine*, November 2, 2018, <https://www.politico.com/magazine/story/2018/11/02/americas-forgotten-pogroms-222181/>

<sup>77</sup> Greenberg, “Black and Jewish,” 6.

<sup>78</sup> Muller, *Free to Die*, 5.

But Judge Goodman, an intensely identified Jew, was the one judge who sided with conscripted internees even as wartime public hysteria pressured him to do otherwise. As he was about to hear the case, a local paper, *The Humboldt Standard*, shouted in a front-page headline: “Not Enough Food, Japs Complain in Jail Here.” In the article itself, the reporter wrote and the editors let stand disgusting language: “Not enough ricee ... they want three mealees, so solly, please.”<sup>79</sup> This dehumanization of Japanese Americans came during the same war in which the United States fought Germany and its dehumanization of Jews.

Judge Goodman dismissed the charges against the Japanese American draft resisters, writing: “It is shocking to the conscience that an American citizen be confined on the ground of disloyalty and then, while so under duress and restraint, be compelled to serve in the armed forces, or be prosecuted for not yielding to such compulsion.”<sup>80</sup>

In 1947, Judge Goodman spoke at his synagogue on Yom Kippur and reflected on his Tule Lake ruling, saying, “Gallantry and intrepidity in a just cause are the essence of strength. They command respect and admiration. They make for security, never for insecurity. If the American Jew looks into himself ... and finds there that kind of courage, the God of Israel should look with favor upon him.”<sup>81</sup>

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<sup>79</sup> Rabbi Stephen S. Pearce, “Jewish Values, A Judge, and Japanese American Internment,” *The Jewish News of Northern California*, March 2, 2022, <https://jweekly.com/2022/03/02/jewish-values-a-judge-and-japanese-american-internment/>

<sup>80</sup> “History,” Tule Lake Committee, accessed January 9, 2023, [tulelake.org/history](http://tulelake.org/history)

<sup>81</sup> Pearce, “Jewish Values.”

When American Jewish organizations came around in the fight for reparations to Japanese Americans, they became key allies of Japanese-American leaders. The fight would last for decades. Four distinguished U.S. public officials of Japanese ancestry were indefatigable: Senator Daniel Inouye (D-Hawaii), Senator Spark Matsunaga (D-Hawaii), Congressman Robert Matsui (D-California) and Congressman Norman Mineta (D-California) — the last two having been sent to internship camps with their families in their youth.<sup>82</sup>

As a 17-year-old high school senior living in Hawaii, Inouye lived through the Japanese bombing of Pearl Harbor. He volunteered with the local Red Cross, helping civilians and sailors wounded in the attack.<sup>83</sup> When he graduated from high school, he tried to enlist in the U.S. military, but was turned away because of the Roosevelt Administration's military directive that banned Japanese Americans. When FDR lifted the order, Inouye tried again, undeterred by the previous racism, and this time was allowed to serve.<sup>84</sup>

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<sup>82</sup> "Civil Liberties Act of 1988," Densho Encyclopedia, accessed January 9, 2023, [https://encyclopedia.densho.org/Civil\\_Liberties\\_Act\\_of\\_1988/](https://encyclopedia.densho.org/Civil_Liberties_Act_of_1988/)

<sup>83</sup> "Daniel Inouye," PBS, accessed January 9, 2023, <https://www.pbs.org/kenburns/the-war/daniel-inouye>

<sup>84</sup> PBS, "Daniel Inouye."

In April 1945, Inouye led his platoon in a brutal fight against Axis troops in Italy.<sup>85</sup> He lost his right arm to a grenade but earned a Purple Heart, Bronze Star and Distinguished Service Cross.<sup>86</sup>

Inouye's loyalty and bravery on behalf of the United States, even after facing government-sanctioned discrimination, deeply resonated with another U.S. Senator, Frank Lautenberg (D-New Jersey), who had also served in Europe during World War II.<sup>87</sup> I worked for Senator Lautenberg as his press secretary in the late 1990s, and he remained a father figure to me until his death in 2013. Senator Lautenberg told me a number of times how deeply touched he was by Senator Inouye's patriotism even in the face of discrimination.

Inouye, also of blessed memory, became the second longest-serving U.S. Senator in history<sup>88</sup> and Lautenberg the longest serving U.S. Senator from New Jersey.<sup>89</sup> United by their progressive values, common battles and service to our country, the two titans from the Greatest Generation became dear friends.

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<sup>85</sup> Tyler Bamford, "Medal of Honor Recipient Daniel Inouye Led a Life of Service to His Country," National WWII Museum, July 19, 2020, <https://www.nationalww2museum.org/war/articles/medal-of-honor-recipient-daniel-inouye>

<sup>86</sup> "Daniel Inouye: A Japanese American Soldier's Valor in World War II," National Park Service, last modified November 9, 2017, <https://www.nps.gov/articles/inouyeww2.htm>

<sup>87</sup> "The Few, The Proud — The Veterans," *Roll Call*, June 2, 2004, [rollcall.com/2004/06/02/the-few-the-proud-the-veterans/](http://rollcall.com/2004/06/02/the-few-the-proud-the-veterans/)

<sup>88</sup> Emma Brown, "Daniel K. Inouye, U.S. Senator, Dies at 88," *The Washington Post*, December 17, 2012, [washingtonpost.com/local/obituaries/daniel-k-inouye-us-senator-dies-at-88/2012/12/17/61030936-b259-11e0-9a80-c46b9cb1255f\\_story.html](http://www.washingtonpost.com/local/obituaries/daniel-k-inouye-us-senator-dies-at-88/2012/12/17/61030936-b259-11e0-9a80-c46b9cb1255f_story.html)

<sup>89</sup> Richard Simon, "Frank Lautenberg Dies at 89; Democratic Senator from New Jersey," *Los Angeles Times*, June 3, 2013, [latimes.com/local/obituaries/la-xpm-2013-jun-03-la-me-frank-lautenberg-20130603-story.html](http://latimes.com/local/obituaries/la-xpm-2013-jun-03-la-me-frank-lautenberg-20130603-story.html)



As I knew from long conversations with Senator Lautenberg during and after my time working for him, he was guided by his Judaism in everything he did in public life. When he was elected to the Senate in 1982, he was not only cofounder and CEO of Automatic Data Processing,<sup>90</sup> but he had also served as national chairman of United Jewish Appeal.<sup>91</sup> In his Senate office he had a wall of photos in which he stood with Prime Ministers and other leaders of Israel – photos on which they wrote messages of gratitude.

To Senator Lautenberg, reparations from the U.S. government to Japanese Americans were no less important than reparations from Germany to Jews. He viewed the fight for both communities as central to his Jewish identity, which motivated him to approach Senator Inouye.

In the U.S. House, meanwhile, Congressman Barney Frank (D-Massachusetts), the new Chair of the powerful Subcommittee on Administrative Law of the House Judiciary Committee,<sup>92</sup> was similarly moved.

Those who have met Barney Frank, including me when I worked in the U.S. House for then-Congressman Chuck Schumer on the House Judiciary Committee, know the centrality of Frank's Jewish and LGBTQ identities to his work. Frank's insistence on reparations for Japanese Americans stemmed from his progressive populism as a member of both communities. As he

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<sup>90</sup> Kent Hoover, "Frank Lautenberg, the Senate's Last World War II Veteran, Dies," *Business Journals*, June 3, 2013, [www.bizjournals.com/bizjournals/washingtonbureau/2013/06/03/frank-lautenberg-the-senates-last.html](http://www.bizjournals.com/bizjournals/washingtonbureau/2013/06/03/frank-lautenberg-the-senates-last.html)

<sup>91</sup> "A 'Foot Solder' for Jewish Empowerment," *New Jersey Jewish News*, June 3, 2013, [njjewishnews.timesofisrael.com/a-foot-soldier-for-jewish-empowerment/](http://njjewishnews.timesofisrael.com/a-foot-soldier-for-jewish-empowerment/)

<sup>92</sup> Leslie Hatamiya, "Righting a Wrong: The Passage of the Civil Liberties Act of 1988," *U.S.-Japan Women's Journal*, no. 2 (1992): 69-70, [jstor.org/stable/42772037](http://jstor.org/stable/42772037)

wrote in his memoir *Frank: A Life in Politics from the Great Society to Same-Sex Marriage*: “The many years I've spent advocating unpopular causes have taught me that it's important to begin with your best case, not in the hope of making instant converts but to persuade your audience that there is room for debate about a subject.”<sup>93</sup>

Thus Lautenberg<sup>94</sup> and Frank<sup>95</sup> proactively joined Inouye, Matsunaga, Matsui and Mineta to help push through the Civil Liberties Act of 1988. Under the law, every surviving internee received \$20,000 in reparations – worth more than \$40,000 today. The U.S. government wound up paying \$1.6 billion in reparations to 82,219 Japanese American internees.<sup>96</sup>

The payments were disbursed as checks in one payment to recipients in 1990 and were accompanied by an apology letter from President George H.W. Bush.<sup>97</sup>

Accompanying the reparations, the letter was *teshuvah* at its best: “A monetary sum and words alone cannot restore lost years or erase painful memories; neither can they fully convey our Nation’s resolve to rectify injustice and to uphold the rights of individuals. We can never

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<sup>93</sup> Barney Frank, *Frank: A Life in Politics from the Great Society to Same-Sex Marriage* (New York, New York: Farrar, Straus and Giroux, 2015), 4.

<sup>94</sup> “All Information (Except Text) for S.1009,” Congress.Gov, accessed January 9, 2023, <https://www.congress.gov/bill/100th-congress/senate-bill/1009/all-info>

<sup>95</sup> “H.R.442 - Civil Liberties Act of 1987,” Congress.Gov, accessed January 9, 2023, <https://www.congress.gov/bill/100th-congress/house-bill/442/cosponsors>

<sup>96</sup> “Redress Payments,” National Museum of American History, accessed January 9, 2023, <https://americanhistory.si.edu/righting-wrong-japanese-americans-and-world-war-ii/redress-payments>

<sup>97</sup> National Museum of American History, “Redress Payments.”

fully right the wrongs of the past. But we can take a clear stand for justice and recognize that serious injustices were done to Japanese Americans during World War II.”<sup>98</sup>

The process of locating survivors took 10 years, so some received their checks with the apology letters signed by President Clinton.<sup>99</sup>

American Jewish organizations, led by the American Jewish Committee (AJC)<sup>100</sup> and the Anti-Defamation League,<sup>101</sup> strongly advocated for the Civil Liberties Act of 1988. AJC’s longtime chief executive David Harris, who led the organization from 1990 to 2022, would testify before Congress multiple times in favor of reparations to Japanese Americans and went out of his way to cite reparations to Jews after World War II as a precedent.<sup>102</sup>

“My biggest takeaway from 47 years of global Jewish advocacy is to delete the word ‘impossible’ from the vocabulary,” Harris wrote in *The Jerusalem Post* in September 2022, reflecting on his time as CEO of the AJC. “Time and again, the impossible has become possible.”<sup>103</sup>

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<sup>98</sup> Amy B. Wang, “‘No time to ask questions’: Lawmaker appears to defend use of WWII Japanese internment camps,” *The Washington Post*, March 23, 2017, <https://www.washingtonpost.com/news/the-fix/wp/2017/03/23/no-time-to-ask-questions-colorado-lawmaker-appears-to-defend-use-of-wwii-japanese-internment-camps/>

<sup>99</sup> National Museum of American History, “Redress Payments.”

<sup>100</sup> Shira Loewenberg, “A Common Stand: A Jewish Response to Anti-Hindu and Anti-Asian Prejudice,” *Jerusalem Strategic Tribune*, December 2021, <https://jstribune.com/common-stand-jewish-hindu-asian-american/>

<sup>101</sup> “ADL’s Mission & History,” Anti-Defamation League, accessed January 9, 2023, <https://www.adl.org/about/mission-and-history>

<sup>102</sup> “Report on the Activities of the Committee on the Judiciary of the House of Representatives...” Congress.Gov, accessed January 9, 2023, <https://www.congress.gov/congressional-report/111th-congress/house-report/712/1>

<sup>103</sup> David Harris, “47 Years on the Jewish front lines: A gratifying life,” *Jerusalem Post*, September 25, 2022, <https://www.jpost.com/diaspora/article-718056>

## American Jewish leadership in the 1940s for German reparations to Jews

Unlike the fights for reparations for Native Americans and Japanese Americans, the American Jewish fight to persuade Germany to pay reparations to Jews after World War II was, to state the obvious, for Jews themselves. But that doesn't tell the whole story. Jewish community leaders in the United States were far ahead of both the U.S. government and many in the government of the new State of Israel in seeking reparations for Jews impacted by the Holocaust.

During World War II, Jews in continental Europe and Jews newly resettled in British Palestine, having escaped the Nazis with nothing or close to it, were in no position to fight for reparations. On their behalf, North American and British Jews<sup>104</sup> led the fight with gusto.

Reparations to Jews began as an idea during the years under which Nazi persecution of European Jewry was in effect even before the murder of six million Jews began in 1942. Reparations were first proposed in 1939 by Shalom Adler-Rudel, director of the central British relief fund to help Jews who had fled to the United Kingdom.<sup>105</sup> Rudel had been a leader in the Jewish community in Berlin before his escape.

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<sup>104</sup> George Hay and Lauren Willmott, "How were British victims of Nazi persecution compensated?" The National Archives, March 31, 2016, <https://blog.nationalarchives.gov.uk/compensation-nazi-persecution/>

<sup>105</sup> Nana Sagi, *German Reparations: A History of the Negotiations* (Jerusalem, Israel: Magnes Press, 1980), 14.

The engine for reparations shifted to the American Jewish community, specifically to Jewish leaders in New York, the population capital of world Jewry before the establishment and growth of Medinat Yisrael. The AJC, through its Committee on Peace Studies, took up the issue in 1940.<sup>106</sup> The World Jewish Congress joined the fight in 1941, shortly after moving its global headquarters from Geneva to New York, where it created the Institute of Jewish Affairs to focus on reparations exclusively.<sup>107</sup> Other Jewish American organizations quickly made reparations a centerpiece of their agenda as well.<sup>108</sup>

Even before Nazi Germany had formalized its plans at the 1942 Wannsee Conference to murder 6,000,000 Jews,<sup>109</sup> and before the extent of the Holocaust became known to the world, American Jews were pivotal in crafting the framework for reparations that became the Luxembourg Agreements of 1952.<sup>110</sup>

Under the agreements, German reparations to Jews – or more precisely West German reparations, as Soviet controlled East Germany refused to pay anything – came in two parallel streams. Under one agreement, West Germany entered a treaty with the new State of Israel to pay Israel \$745 million in direct cash and in-kind industrial reparations for the

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<sup>106</sup> Sagi, *German Reparations*, 15.

<sup>107</sup> "Institute of Jewish Affairs," Center for Jewish History, accessed January 9, 2023, [https://archives.cjh.org/agents/corporate\\_entities/37642](https://archives.cjh.org/agents/corporate_entities/37642)

<sup>108</sup> Ronald W. Zweig, *German Reparations and the Jewish World: A History of the Claims Conference* (London, England: Routledge, 2013), 12.

<sup>109</sup> "Wannsee Conference and the 'Final Solution,'" United States Holocaust Memorial Museum, accessed January 9, 2023, <https://encyclopedia.ushmm.org/content/en/article/wannsee-conference-and-the-final-solution>

<sup>110</sup> Nicholas Balabkins, *West German Reparations to Israel* (New Brunswick, New Jersey: Rutgers University Press, 1971), 86.

500,000 refugees from the Holocaust that Israel was absorbing.<sup>111</sup> Germany agreed to pay reparations to Israel, and indeed did so, in annual installments over 14 years between April 1, 1953, and March 31, 1966.<sup>112</sup>

Under the other Luxembourg agreement in 1952, West Germany agreed to pay \$100 million to a new Jewish collective headquartered in New York, The Conference on Jewish Material Claims Against Germany. Founded in 1951 by 23 major Jewish organizations from around the world, the Claims Conference would disburse the money to Jewish individuals impacted by Nazi murder and oppression.<sup>113</sup>

West Germany and then Germany, which reunited in 1989, went on to pay much more in reparations since the Luxembourg Agreement. According to the Claims Conference, the total amount of German reparations from 1952 through the present has been \$90 billion.<sup>114</sup> Germany has agreed to pay about \$1.2 billion to Holocaust survivors living around the globe in 2023.<sup>115</sup>

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<sup>111</sup> Lily Gardner Feldman, "The September 1952 Reparations Agreement between West Germany and Israel: The Beginning of a Remarkable Friendship," The American Institute for Contemporary German Studies, November 12, 2019, <https://www.aicgs.org/2019/11/the-september-1952-reparations-agreement-between-west-germany-and-israel-the-beginning-of-a-remarkable-friendship/>

<sup>112</sup> "Holocaust Restitution: German Reparations," Jewish Virtual Library, accessed January 9, 2023, <https://www.jewishvirtuallibrary.org/german-holocaust-reparations>

<sup>113</sup> "About Us," Conference on Jewish Material Claims Against Germany, accessed January 9, 2023, [claimscon.org/about](https://www.claimscon.org/about)

<sup>114</sup> Conference on Jewish Material Claims Against Germany, "About Us."

<sup>115</sup> Kirsten Grieshaber, "Germany marks 70 years of compensating Holocaust survivors," *Associated Press*, September 15, 2022, <https://apnews.com/article/holocaust-survivor-compensation-fund-germany-0d35aa1c8a7756d1b9b6008e9d7841b7>

As the American Jewish community fully wrapped itself around the cause of reparations, the U.S. State Department initially fought the idea. The belief at Foggy Bottom was that forcing Germany, or what would become West Germany, to pay reparations would make Germany an economic basket case that would enduringly destroy the European economy, and therefore the world economy, and therefore the U.S economy.<sup>116</sup>

The State Department was also concerned that a totally weakened Germany with a sense of national humiliation, as Germany had when it emerged from World War I, would encourage Germany to instigate yet another war after World War II. The Truman and Eisenhower Administrations then came to favor a strong West Germany relative to East Germany in the context of the Cold War against the Soviet Union.<sup>117</sup>

But as the scope of Nazi horrors emerged and as American Jewry's united and powerful advocacy effort reached full force, the State Department backed down and then helped American Jewish leaders develop a reparations plan.

The major difference in reparations progress that occurred during World War II, versus after, was the 1948 establishment of the State of Israel, a sovereign nation that would

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<sup>116</sup> Sagi, *German Reparations*, 60-61.

<sup>117</sup> Balabkins, *West German*, 47-49.

negotiate reparations for Jews in its own borders. Well-documented is the debate within early Israeli government and society on whether the new country should accept reparations at all.<sup>118</sup>

The opposition was led by Menachem Begin, who believed reparations would be perceived by Germany and the rest of the world as being an unthinkable rationale to forgive Germany and move on from the memory of the Holocaust.<sup>119</sup> Begin publicly called Germany, and by implication all Germans including West Germans willing to pay reparations, Amalek.<sup>120</sup>

West Germany's first chancellor, Konrad Adenauer, a supporter of Israel and the Jewish people, also understood that West Germany would never become a normal country accepted by the world unless it paid reparations as an expression of its remorse.<sup>121</sup> This did not assuage Begin and his Knesset allies. They remained sickened by the idea of Germans' thinking they made good from the Holocaust.<sup>122</sup>

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<sup>118</sup> Balabkins, *West German*, 138.

<sup>119</sup> Felix Pope, "German government to pay Holocaust survivors a further £1 billion," *Jewish Chronicle*, September 18, 2022, <https://www.thejc.com/news/world/german-government-to-pay-holocaust-survivors-a-further-gbp1-billion-4owa2kLno8oYiGVDbp2pGr>

<sup>120</sup> Yaakov Sharett (ed.), *The Reparations Controversy: The Jewish State and German Money in the Shadow of the Holocaust 1951-1952* (Berlin, Germany: De Gruyter, 2011), 182. Yaakov Sharrett, 95 at this writing, is the oldest child of Moshe Sharrett, who served as Israel's foreign minister from 1948 to 1956, encompassing Israel's national debate over reparations and subsequent negotiations with West Germany. Moshe Sharrett also served as Israel's prime minister, its second, in 1954 and 1955.

<sup>121</sup> Zweig, *German Reparations*, 18.

<sup>122</sup> Luke Harding, "Menachem Begin 'plotted to kill German chancellor,'" *Guardian*, June 15, 2006, <https://www.theguardian.com/world/2006/jun/15/germany.lukeharding>



To this day, the German word for reparations paid to Jews after World War II is “*Wiedergutmachung*,” meaning “Make Good Again.”<sup>123</sup> It is one thing for us Jews to understand the concept as part of *teshuvah*, but an infinitely less benign concept for Germans to adopt the concept to move on from the Holocaust.

As the debate over reparations split early Israeli society, the prevailing argument to accept reparations was led by Israel’s first President, David Ben Gurion. He believed reparations would be the Jews’ ultimate revenge; that living Germans and their heirs would have it too easy without paying reparations.<sup>124</sup> But most of all, he was guided by practicality.<sup>125</sup> The new State of Israel was economically struggling, as brand-new countries do, to the point where its survival was in question. Let’s take the money, Ben Gurion argued, and build a permanent and strong State of Israel that would not only fulfill our Zionist dream, but also represent the ultimate revenge against Germany.<sup>126</sup>

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<sup>123</sup> “Transitional Justice in Germany,” Facing History and Ourselves, last modified May 12, 2020, [facinghistory.org/resource-library/transitional-justice-germany](https://facinghistory.org/resource-library/transitional-justice-germany)

<sup>124</sup> Coates, “Case for Reparations.”

<sup>125</sup> Balabkins, *West German*, 152.

<sup>126</sup> Sharett (ed.), *Reparations Controversy*, 2.

On January 9, 1952, the Knesset voted 61-50 to accept reparations from West Germany.<sup>127</sup> After the vote, Israel entered negotiations that had their basis in the framework crafted a few years earlier largely by American Jews.

The impact of German reparations on Israel's economy was remarkable: By 1956, the German state was supplying 87.5% of Israel's state revenue.<sup>128</sup> Israel's real Gross National Product had achieved a mind-boggling annual growth rate of 11 percent between 1950 and 1965.<sup>129</sup> Israel went from barely surviving to the edge of thriving, figuratively overnight.

But Germany's payment of reparations after the Holocaust has not always been so eager. In perhaps the most famous case of German recalcitrance, a newly reunified Germany refused to pay reparations to Hugo Princz, a Holocaust survivor who had immigrated to the United States and settled in New Jersey.<sup>130</sup>

Germany cited a loophole in which Princz was ineligible for reparations because he was a U.S. citizen at the time of the Holocaust, having been born in Slovakia to an American

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<sup>127</sup> "Israel Accepts German Reparations," Center for Israel Education, accessed January 9, 2023, <https://israeled.org/israel-accepts-german-reparations/>

<sup>128</sup> Gabriel Greschler, "Atonement: The Jewish Case for Black Reparations," *Jewish News of Northern California*, October 4, 2019, <https://jweekly.com/2019/10/04/the-jewish-case-for-black-reparations/>

<sup>129</sup> Nadav Halevi, "A Brief Economic History of Modern Israel," EH.net, March 16, 2008, <https://eh.net/encyclopedia/a-brief-economic-history-of-modern-israel/>

<sup>130</sup> Douglas Martin, "Hugo Princz, 78, U.S. Winner of Holocaust Settlement, Dies," *The New York Times*, July 31, 2001, [nytimes.com/2001/07/31/nyregion/hugo-princz-78-us-winner-of-holocaust-settlement-dies.html](https://www.nytimes.com/2001/07/31/nyregion/hugo-princz-78-us-winner-of-holocaust-settlement-dies.html)

father.<sup>131</sup> That hadn't stopped the Nazis from killing most of his family and forcing Princz to work as a slave laborer before being targeted for death at Auschwitz, which he miraculously survived.<sup>132</sup>

Living in the United States, Princz fought for reparations for 40 years, including through a lawsuit that U.S. courts rejected on the grounds that Americans could not sue foreign governments in U.S. courts.<sup>133</sup>

Senator Frank Lautenberg, my boss who counted Princz as a constituent, took up Princz's fight for reparations as a matter of Jewish justice, but not simply because Princz was Jewish. Senator Lautenberg told me he would have fought for Princz even if Princz weren't Jewish, in the same way he, Senator Lautenberg, fought for reparations for interned Japanese Americans, consistent with his Jewish values.

Besides introducing a resolution in the Senate,<sup>134</sup> Lautenberg met with German Chancellor Helmut Kohl when Kohl visited Washington in 1995, and gave Kohl a written plea from Princz.<sup>135</sup>

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<sup>131</sup> David Segal, "Championing the Unpaid 50 Years After the Unspeakable," *The Washington Post*, August 5, 1996, [washingtonpost.com/archive/business/1996/08/05/championing-the-unpaid-50-years-after-the-unspeakable/efeba798-a7bc-4eb8-8fef-2dbbad969c3e/](https://www.washingtonpost.com/archive/business/1996/08/05/championing-the-unpaid-50-years-after-the-unspeakable/efeba798-a7bc-4eb8-8fef-2dbbad969c3e/)

<sup>132</sup> Martin, "Hugo Princz."

<sup>133</sup> Martin, "Hugo Princz."

<sup>134</sup> "S.Res.162 - A resolution relating to the treatment of Hugo Princz..." Congress.Gov, accessed January 9, 2023, <https://www.congress.gov/bill/103rd-congress/senate-resolution/162>

<sup>135</sup> Lyle Denniston and Mark Matthews, "Congress pressures Kohl to compensate American Holocaust survivor," *Baltimore Sun*, February 10, 1995, <https://www.baltimoresun.com/news/bs-xpm-1995-02-10-1995041036-story.html>

“I want only to be compensated in the same way that other survivors have been since the 1950s,” Princz wrote to Kohl. At a recent commemoration of the liberation of Auschwitz, Princz reminded Kohl, “you stated that the ‘darkest and most awful chapter in German history’ was written there. But that book is not yet closed as long as your country continues to wage war against me.”<sup>136</sup>

Princz signed the letter “Hugo Princz, Auschwitz ID Number 36707.”<sup>137</sup>

Thanks to Senator Lautenberg, who believed reparations reflected the Jewish obligation to remember the suffering of all peoples, Germany would agree to a \$2.1 million settlement for Princz, along with 11 other Holocaust survivors, and an additional \$18.5 million to approximately 235 other Americans who survived Nazi concentration camps.<sup>138</sup>

### **How classic Jewish texts and practices inform contemporary Jewish support for reparations**

Throughout the 20<sup>th</sup> Century in which American Jewish leaders fought for reparations for oppressed communities, never did they question their responsibility to fight for

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<sup>136</sup> “Officials Pressure Germany to Pay Reparations to Survivor,” *Jewish Telegraphic Agency*, February 22, 1995, [jta.org/archive/officials-pressure-germany-to-pay-reparations-to-survivor](http://jta.org/archive/officials-pressure-germany-to-pay-reparations-to-survivor)

<sup>137</sup> *Jewish Telegraphic Agency*, “Officials Pressure Germany to Pay Reparations to Survivor.”

<sup>138</sup> Martin, “Hugo Princz.”

reparations for others when Jews were not among the oppressors or when the harm itself was long ago. Jewish leaders took up the fight because they considered it their moral responsibility, steeped in Jewish texts and tradition.

To be sure, several passages in the Torah endorse slavery. Leviticus 25:44-46 says Israelites may acquire slaves from “aliens resident among you” and “keep them as a possession for your children after you.”<sup>139</sup> Leviticus bans the enslavement of Israelites altogether whereas Deuteronomy 15:12 places a six-year limit on the enslavement of an Israelite. The Talmud reinforces the differentiation between Hebrew slaves and non-Hebrew slaves, recommending that Hebrew slaves must have “living conditions are equal to the owner’s own.” Not until Maimonides’ *Mishneh Torah, Avadim 9:8*, do we find the admonition to treat *all* slaves with compassion: “Do not press them too hard; do not shout at them or be angry with them, but hear their claims.”

As early and often as the Torah endorses slavery, it endorses reparations to freed slaves with similar immediacy and frequency. In Genesis 15:12-14, God tells a sleeping Abram: “Know well that your offspring shall be strangers in a land not theirs, and they shall be enslaved and oppressed 400 years, but I will execute judgment on the nation they shall serve, and they shall go free with great wealth.” Not only will there be reparations, but they

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<sup>139</sup> I place citations of passages of the Bible, the Talmud and the various Medieval Codes in the body of this paper rather than in the footnotes.

will also be ample and just. Exodus 12:35-36 tells us the Israelites “stripped the Egyptians” of “silver and gold and clothing.”

Deuteronomy sets reparations rules for the Israelites who become slave owners themselves. Deuteronomy 15:12-15 mandates that when a slave owner sets his slave free in the seventh year, “*do not let him go empty-handed*. Bear in mind that you were slaves in Egypt and the Lord your God redeemed you; therefore I enjoin this commandment upon you today.”

But what if we Jews had little to do with the enslavement of African Americans? Do we still have an obligation to pay reparations or even be involved in the battle?

Let’s examine the presumption of limited Jewish involvement. During the Civil War, Judah Benjamin, who was Jewish, served in the cabinet of confederacy president Jefferson Davis.<sup>140</sup> Beyond that, zero evidence exists for the Antisemitic conspiracy theories that Jews were prominent in the slave trade.<sup>141</sup>

In three award-winning books on the subject, Professor David Brion Davis of Yale University examined the role of American Jews among that of other communities in

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<sup>140</sup> Michael Feldberg, “Judah Benjamin,” Jewish Virtual Library, accessed Dec. 4, 2022, [jewishvirtuallibrary.org/judah-benjamin](http://jewishvirtuallibrary.org/judah-benjamin)

<sup>141</sup> “Ministry of Lies: The Truth Behind the Nation of Islam’s the Secret Relationship Between Blacks and Jews,” Publishers Weekly, accessed January 9, 2023, <https://www.publishersweekly.com/978-1-56858-016-6>

slavery.<sup>142</sup> He found that in U.S. slave states in 1830, “20 Jews among 45,000 slaveholders own(ed) 20 or more slaves” and “20 Jews among the 12,000 slaveholders own(ed) 50 or more slaves.”<sup>143</sup>

That Jews were scarcely involved in slavery was not just a matter of the Jewish social justice ethos, but also attributable to a lack of opportunity. In a 1954 study of slavery in the South, *Colonial Caroline: A History of Caroline County, Virginia*, author T.E. Campbell describes a number of laws or roadblocks that prevented Jews from owning slaves.<sup>144</sup> Besides, most of the local Jews were poor, owing to such discrimination, and could not afford slaves in the first place.<sup>145</sup>

Still, we Jews have benefitted from living in a nation built by slaves. In Talmudic terms, we have been prospering in a house built with a stolen beam.

*Gittin* 55a features a debate between the Houses of Hillel and Shammai about what to do about a house built with a stolen beam – a beam that could not simply be removed and returned to its rightful owner with keeping the house intact. Must the homeowner dismantle

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<sup>142</sup> Elsa Dixler, “David Brion Davis, Prizewinning Historian of Slavery, Dies at 92,” *The New York Times*, April 15, 2019, <https://www.nytimes.com/2019/04/15/obituaries/david-brion-davis-dead.html>

<sup>143</sup> David Brion Davis, “The Slave Trade and the Jews,” *New York Review of Books*, December 22, 1994, [nybooks.com/articles/1994/12/22/the-slave-trade-and-the-jews](https://www.nybooks.com/articles/1994/12/22/the-slave-trade-and-the-jews)

<sup>144</sup> T.E. Campbell, *Colonial Caroline: A History of Caroline County, Virginia* (Richmond, Virginia: Dietz Press, 1989), 401.

<sup>145</sup> Campbell, *Colonial Caroline*, 400-402.

the house to return the beam? Shammai says yes. Hillel presents a different solution and the winning argument: Financial reparations are in order.

Rabbi Sharon Brous, the founder of congregation Ikar in Los Angeles and one of American Jewry's shining lights for social justice, applies the stolen beam concept to the current debate on reparations to African Americans for slavery. In a March 2018 opinion piece for the *Los Angeles Times*, Rabbi Brous wrote: "Our country was built on a stolen beam. More accurately, several million stolen beams. Only they weren't beams. They were human beings. The palace they built was magnificent, but they have never been compensated for their labor."<sup>146</sup>

Pulitzer Prize winner Isabel Wilkerson has her own take in *Caste: The Origins of Our Discontents*. "Throughout human history," she writes, "three caste systems have stood out: The tragically accelerated, chilling, and officially vanquished caste system of Nazi Germany. The lingering, millennia-long caste system of India. And the shape-shifting, unspoken, race-based caste pyramid in the United States. Each version relied on stigmatizing those deemed inferior to justify the dehumanization necessary to keep the lowest-ranked people at the bottom and to rationalize the protocols of enforcement."<sup>147</sup>

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<sup>146</sup> Rabbi Sharon Brous, "Why Jews Should Support Reparations for Slavery," *Los Angeles Times*, March 7, 2018, [latimes.com/opinion/op-ed/la-oe-brous-reparations-slavery-jews-holocaust-20180307-story.html](https://www.latimes.com/opinion/op-ed/la-oe-brous-reparations-slavery-jews-holocaust-20180307-story.html)

<sup>147</sup> Isabel Wilkerson, "'America is an old house': Isabel Wilkerson on race and caste in America," *Marketplace*, August 5, 2020, <https://www.marketplace.org/2020/08/05/america-is-an-old-house-isabel-wilkerson-on-race-and-caste-in-america/>



The economic benefit to us Jews from living in a nation built with several million stolen beams – the beams of slave labor – could not be clearer. Today 35% of all U.S. households report an annual household income of more than \$100,000.<sup>148</sup> That number is 54% for Jewish households<sup>149</sup> versus 18% for African American households.<sup>150</sup>

We American Jews, far more prominent in racial justice movements than our percentage of the general U.S. population, would have reason to take issue with taking on disproportionate blame. But the issue before us is not blame. It is our responsibility to lead.

We American Jews didn't invent the U.S. government policies that stole Native American land. We didn't force Japanese Americans to live in internment camps or, it goes without saying, murder 6,000,000 Jews abroad. But we still led the way for reparations for the communities oppressed.

As the former President of Bar Ilan University, Rabbi Emanuel Rackman of blessed memory, once wrote, the Torah requires Judaism to be a religion and way of life based on "empathic justice." Empathic justice, he said, "seeks to make people identify themselves with each other – with each other's needs, with each other's hopes and aspirations, with each

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<sup>148</sup> "Households Earning More Than \$100,000," IBISWorld, May 16, 2022,

<https://www.ibisworld.com/us/bed/households-earning-more-than-100-000/35/>

<sup>149</sup> "Jewish Americans in 2020," Pew Research Center, May 11, 2021, [pewresearch.org/religion/wp-content/uploads/sites/7/2021/05/PF\\_05.11.21\\_Jewish.Americans.pdf](https://www.pewresearch.org/religion/wp-content/uploads/sites/7/2021/05/PF_05.11.21_Jewish.Americans.pdf)

<sup>150</sup> "Facts About the U.S. Black Population," Pew Research Center, March 25, 2021, [pewresearch.org/social-trends/fact-sheet/facts-about-the-us-black-population/](https://www.pewresearch.org/social-trends/fact-sheet/facts-about-the-us-black-population/)

other's defeats and frustrations. Because Jews have known the distress of slaves and the loneliness of strangers, we are to project ourselves into their souls and make their plight our own."<sup>151</sup>

In other words, we Jews do not have to be the cause of other people's oppression, or the recipient of other people's oppression, to feel responsible for doing something about other peoples' oppression. That is the reason American Jews played a leading role in winning reparations for other communities and must do so now for the African-American community.

While many American Jewish thought leaders favor reparations for African-Americans, support is not unanimous. The most influential Jewish American opposed to reparations is Stuart E. Eizenstat, an elder statesman in the Democratic Party who served as Chief Domestic Policy Advisor to President Carter, and Ambassador to the European Union and Deputy Secretary of the Treasury in the Clinton Administration.<sup>152</sup>

Eizenstat has worked tirelessly throughout his career to provide reparations to victims and survivors of the Holocaust. He is currently Chairman of the U.S. Holocaust Memorial Council and the national Holocaust Museum in Washington, DC.<sup>153</sup>

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<sup>151</sup> Richard H. Schwartz, "Jewish Teachings on Social Justice," *Times of Israel*, October 17, 2017, [blogs.timesofisrael.com/jewish-teachings-on-social-justice/](https://blogs.timesofisrael.com/jewish-teachings-on-social-justice/)

<sup>152</sup> "Stuart E. Eizenstat," United States Holocaust Memorial Museum, accessed December 4, 2022, [ushmm.org/information/about-the-museum/council/eizenstat](https://ushmm.org/information/about-the-museum/council/eizenstat)

<sup>153</sup> United States Holocaust Memorial Museum, "Stuart E. Eizenstat."

In October 2019, he wrote a sweeping piece in *Politico* titled “What Holocaust Restitution Taught Me About Slavery Reparations,” in which he argues that slavery occurred too long ago to consider reparations today: “What I learned as chief negotiator for both the U.S. government, across several Presidential administrations, and for the Jewish Claims Conference, a group representing Holocaust survivors in compensation negotiations with the postwar German government, is that reparations are complicated, contentious and messy, and work best when the crime was recent and the direct victims are still alive. Based on my experience, I believe that trying to repay descendants of slaves could end up causing more problems than reparations would seek to solve and that there are better ways to end racial disparities.”<sup>154</sup>

Another Jewish opponent of reparations is Jonathan Tobin, former executive editor of *Commentary* magazine and lead editor of Jewish newspapers serving greater Philadelphia and Connecticut.<sup>155</sup> Tobin is now editor-in-chief of the *Jewish News Syndicate*,<sup>156</sup> where he wrote in a column: “Reparations only work as a legal solution when compensation is granted to those who suffered or their immediate heirs. The Germany that began paying reparations to Jews in the 1950s was the same country that had murdered 6 million Jews and stolen the property of countless others only a few years earlier. In so doing, Germans were giving up the profits of

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<sup>154</sup> Stuart E. Eizenstat, “What Holocaust Restitution Taught Me About Slavery Reparations,” *Politico*, October 27, 2019, [politico.com/magazine/story/2019/10/27/slavery-reparations-holocaust-restitution-negotiations-229881](https://www.politico.com/magazine/story/2019/10/27/slavery-reparations-holocaust-restitution-negotiations-229881)

<sup>155</sup> “JNS names Jonathan Tobin editor in chief,” *Jewish News Syndicate*, December 4, 2017, [jns.org/jns-names-jonathan-tobin-editor-in-chief/](https://www.jns.org/jns-names-jonathan-tobin-editor-in-chief/)

<sup>156</sup> *Jewish News Syndicate*, “JNS names Jonathan Tobin editor in chief.”

genocide to the actual victims and entities like Israel that had provided refuge for the survivors.”<sup>157</sup>

Eizenstat and Tobin ignore the economic through-line that Ta-Nehisi Coates drew from slavery to Jim Crow to segregated lending, housing and education to present-day race discrimination. Slavery is not an issue that ended in 1865. The havoc that slavery wreaked upon Black people in America continues today.

Besides, sacred Jewish texts set no statute of limitations for righting all-time moral wrongs. Sacred Jewish texts place on us in the present day the responsibility to make reparative amends, including in cash, for the cruel malfeasance of years gone by, no matter how long ago.

The Talmud tells us why present-day Americans should pay reparations for African-American slavery that ended in 1965. In *Kiddushin* 15a, after Rabbi Elazer argues that one should give severance to the slave but not his heirs, the Gemara responds: “Why not give it to his heirs? After all, the Torah calls a Hebrew slave ‘a hired worker.’ Just as payment for the labor of a hired worker is given to his heirs when he dies, so too this severance gift for his labor should be given to his heirs when he dies.”

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<sup>157</sup> Jonathan S. Tobin, “Are Jews Obligated to Support Reparations for African-Americans?” *Jewish News Syndicate*, July 10, 2020, <https://www.ins.org/opinion/are-jews-obligated-to-support-reparations-for-african-americans/>

Consistent with that thinking, the Bureau of Indian Affairs, created in 1824, operates to this day to provide general relief and disaster assistance to Native American tribes.<sup>158</sup> In 1946, a federal law created the Indian Claims Commission to pay reparations to Indian tribes for land seized by the United States.<sup>159</sup> The Commission ended its operations in 1978, two hundred years after the U.S. declared independence on stolen Native American land.<sup>160</sup> The Indian Health Service, created in 1955 as part of the Bureau of Indian Affairs and now part of the U.S. Department of Health and Human Services,<sup>161</sup> still provides direct and subsidized medical care to at least 2.6 million Native Americans and Native Alaskans in 574 federally recognized tribes across 37 states.<sup>162</sup>

As for German reparations to Jewish survivors of the Holocaust, the Claims Conference operates in full force to this day.<sup>163</sup> No one would suggest that reparations have become a moot point, with no need for the Claims Conference to continue, because the Holocaust ended 78 years ago.

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<sup>158</sup> "Bureau of Indian Affairs," U.S. Department of the Interior: Indian Affairs, accessed December 4, 2022, [bia.gov/bia](https://www.bia.gov/bia)

<sup>159</sup> "Lead Up to the Indian Claims Commission of 1946," U.S. Department of Justice, accessed December 4, 2022, [justice.gov/enrd/lead-indian-claims-commission-act-1946](https://www.justice.gov/enrd/lead-indian-claims-commission-act-1946)

<sup>160</sup> "Records of the Indian Claims Commission," National Archives, accessed January 10, 2023, <https://www.archives.gov/research/guide-fed-records/groups/279.html>

<sup>161</sup> "Indian Health Service Today," National Library of Medicine, accessed January 10, 2023, [https://www.nlm.nih.gov/exhibition/if\\_you\\_knew/ifyouknew\\_09.html](https://www.nlm.nih.gov/exhibition/if_you_knew/ifyouknew_09.html)

<sup>162</sup> "About IHS," Indian Health Service, accessed December 4, 2022, [ihs.gov/aboutihs/](https://www.ihs.gov/aboutihs/)

<sup>163</sup> Conference on Jewish Material Claims Against Germany, "About Us."

The Jewish experience in establishing the Claims Conference can be a model for reparations to African Americans. The federal government should work with African-American organizations nationwide on the establishment of a reparations organization evocative of Claims Conference. To be sure, a National Conference on Reparations would go well beyond the tepid commission proposed in H.R. 40 to study whether reparations should be paid. A National Conference on Reparations, like the Claims Conference for Holocaust survivors, would be founded on the accepted principle that reparations must be paid.

A National Conference could insist on a flat cash payment from the U.S. government to all descendants of enslaved African Americans. The Conference could also propose guidelines to the U.S. Congress for paying additional monies to African Americans who suffered further damages from slavery and ensuing discrimination.

The Conference would be in an ideal position to advise the U.S. Congress, state legislatures, and county and local governments on in-kind economic programs to supplement, but not substitute for, cash payments. Housing, business and student loan forgiveness programs, as well as “baby bonds” for newborn African Americans,<sup>164</sup> would be among the possibilities to consider.

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<sup>164</sup> Grace Segers, “Cory Booker Wants Baby Bonds in the Budget Reconciliation Bill,” *New Republic*, August 6, 2021, <https://newrepublic.com/article/163188/cory-booker-baby-bonds-budget-reconciliation>

If the Conference wanted to consider distributive justice further, it would recommend ways to strengthen Affirmative Action, which federal and state courts have weakened considerably in recent years.

Any legislation establishing a National Conference on Reparations would make clear that Affirmative Action, even were it to survive this U.S. Supreme Court, is no substitute for the corrective justice of cash payments. Cash is restitution for the past. Affirmative action is designed to combat racial discrimination in the future.

Will the process be messy? Of course. That's part of the reckoning. We American Jews must celebrate the messiness as essential to the joyous, multifaceted process that comes with *teshuva* and with social change. After all, Judaism is a religion with comparatively few believers with dreams for the entire world. *Tikkun olam* is our ethos to fix the world of its injustices on a grand, structural scale. How could *tikkun olam* not be messy? How could reparations to African Americans not be among our responsibilities?

We Jews can only be a light unto the United States, and in turn, unto the nations, if we follow both halacha and the American Jewish community's leadership during the 20<sup>th</sup> Century to fight for reparations for the living descendants of slaves.

The ethics of consistency demand no less.

## **ABOUT THE AUTHOR**

Steven Goldstein, a lawyer and longtime civil rights leader, has played a role in the passage of more than 200 civil rights laws as the executive director of state and national social justice organizations and as a senior staff member in the U.S. House and U.S. Senate. His interest in reparations, the subject of this Whizin Prize essay that he wrote at his master's thesis at the Academy for Jewish Religion in New York, began 25 years ago when he worked for U.S. Senator Frank R. Lautenberg (D-NJ) of blessed memory, a champion of reparations for oppressed communities. Steven is also a former television news producer with 10 Emmys. A graduate of Brandeis, Harvard Kennedy School, Columbia Journalism School, Columbia Law School, and the Academy for Jewish Religion, he is currently a rabbinical student at the Reconstructionist Rabbinical College.



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