

Resolution by the New York State Community Commission on Reparations Remedies to adopt the Basic Principles and Guidelines on the Right to a Remedy and Reparation for New York State Black victims of gross violations of international human rights law and serious violations of international humanitarian law consistent with resolution adopted by the United Nations General Assembly on 16 December 2005

Whereas, On December 19, 2023, Chapter 729 of the Laws of 2023 was signed by Governor Hochul. The law established the New York State Community Commission on Reparations Remedies (hereinafter referred to as the "the Commission"); and

Whereas, The law is necessary because the slavery and subsequent structural discrimination that flourished in New York State constituted an immoral and inhuman deprivation of African Americans' life, liberty, citizenship rights, cultural heritage, and denied them the fruits of their own labors.

Whereas, The law assigns several duties to the Commission and requirements to carryout various responsibilities , including:

- (1) Examine the institution of slavery which existed within the State of New York and in the City of New York.
- (2) Examine the extent to which the federal government, as well as the state and local governments of New York, supported the institution of slavery, including the extent to which such governments prevented, opposed, or restricted efforts of freed enslaved Africans to repatriate to their homeland.
- (3) Examine how New York State engaged in the interstate transfer of enslaved Africans and carried out federal policies in the furtherance of slavery.
- (4) Examine the *de jure* and *de facto* discrimination against freed enslaved Africans, their descendants, and people of African descent, generally at both the state and federal levels of government, during the period between the end of the Civil War and the present, including, but not limited to, economic, political, educational, and social discrimination.
- (5) Examine the lingering negative effects of the institution of slavery and discrimination on living people of African descent and on society in the State of New York.
- (6) Examine the current conditions of living people of African descent in the State of New York, to the extent practicable, including, but not limited to, economic, political, educational, and social conditions.
- (7) Recommend appropriate ways to educate the public of The Commission's findings.
- (8) Recommend appropriate remedies and reparations in consideration of The Commission's findings on the matters described in paragraphs 1, 2, 3, 4, 5, 6 listed above to determine how the State of New York may provide for appropriate laws, policies, programs, projects, and other recommendations in order to reverse such injuries. Such remedies may include compensation, including but not limited to the amount of compensation and who should be eligible for such compensation.
- (9) Examine the feasibility for the creation of a bureau to assist in the distribution and administration of remedies and reparations as recommended by The Commission pursuant to paragraph 8 above; and

Whereas, The law provides the Commission with certain powers, including:

- (a) The Commission shall, for the purpose of carrying out the provisions of this act, solicit public input from stakeholders and interested parties, and shall hold such public hearings as the commission considers appropriate.
- (b) Any subcommittee or member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.
- (c) The Commission may acquire directly from the head of any department, agency, or instrumentality of the state, available information, which the commission considers useful in the discharge of its duties.

Now, Therefore, Be It Resolved:

That the Commission hereby adopts the following Basic Principles and Guidelines on the Right to a Remedy and Reparation for victims of gross violations of International Human Rights Law and serious violations of International Humanitarian Law (GENERAL ASSEMBLY RESOLUTION 60/147)

(A) The Commission defines “reparation” in accordance with the United Nations definition as “...measures to redress violations of human rights by providing a range of material and symbolic benefits to victims or their families as well as affected communities. Reparation must be adequate, effective, prompt, and should be proportional to the gravity of the violations and the harm suffered.”

(B) The Commission will adopt a victim-oriented perspective that affirms its human solidarity with victims of violations of international law, including violations of international human rights law and international humanitarian law, in accordance with the following:

- (1) Obligation to respect, ensure respect for and implement international human rights law and international humanitarian law.
- (2) For purposes of the work of The Commission, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights through acts or omissions that constitute gross violations of international human rights law or serious violations of international humanitarian law.
- (3) Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy as well as those of their families.
- (4) And serious violations of international humanitarian include the victims’ right to equal and effective access to justice; adequate, affected and prompt reparation for harm suffered; and access to relevant information concerning violations, reparation mechanisms.
- (5) A victim of gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law.

(6) Adequate, effective, and prompt reparation is intended to promote justice by redressing gross violations or serious violations of international humanitarian law.

(C) The Commission, in order to recommend judgment for reparation against individuals or entities liable for the harm suffered and endeavor to recommend legal judgments for reparation in accordance with domestic law, and international legal obligation hereby embraces the following:

Restitution: should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. (Restitution includes as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.)

Compensation: should be provided for any economically accessible damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law.

Rehabilitation: should include medical and psychological care as well as legal and social services.

Satisfaction: should include where applicable:

- Verification of the facts in full and public disclosure of the truth. To the extent that such disclosure does not cause further harm or threaten the safety and interest of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations
- The search for the whereabouts of the disappeared, for the identities of the children abducted and for the bodies of those killed, and assistance in the recovery, dedication and reburial of **their** bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities
- An official declaration or a judicial decision restoring the dignity, the reputation, and the rights of the victim and of persons closely connected with the victim
- Public apology including acknowledgment of the facts and acceptance of responsibility
- Judicial and administrative sanctions against persons liable for the violations
- Commemorations and tributes to the victims
- Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels

Guarantees of non-repetition: should include, where applicable, any or all of the following measures which will also contribute to prevention

- ensuring effective civilian control of military and security forces
- ensuring all civilian and military proceedings abide by international standards of due process, fairness and impartiality
- strengthening the independence of the judiciary

- protecting persons in the legal, medical and healthcare professions, the media and other related professions, and human rights defenders
- providing our priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces
- promoting the observance of codes of conduct and ethical norms, in particular international standards, by public service, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises
- promoting mechanisms for preventing and monitoring social conflicts and their resolution
- reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law

(C) The Commission will develop and suggest means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines.

(D) The Commission will strive to ensure that the application and interpretation of these Basic Principles and Guidelines will be consistent with international human rights law and international humanitarian law and be without any discrimination of any kind, or on any ground, without exception.

(E) Nothing in these Basic Principles and Guidelines shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law

(F) Nothing in this resolution is to be construed as derogating from internationally or nationally protected rights of others, in particular the right of an accused person to benefit from applicable standards of due process

motion made by

motion seconded

action

date