

Statement of

Deleso Alford Washington, Esq

**Co-Chair of Legal Strategies Commission for the
National Coalition of Blacks for Reparations in America (N'COBRA)**

**Before
Congressman John Conyers, Jr., and other members of the Congress**

**Concerning
Reparations and the need to pass H.R. 40**

April 6, 2005

I. INTRODUCTION

I appreciate the opportunity to testify before members of the Congress during its briefing on Reparations and H.R. 40. I am Deleso Alford Washington, Co-Chair of Legal Strategies Commission for the National Coalition of Blacks for Reparations in America. The National Coalition of Blacks for Reparations in America is a mass-based coalition organized for the sole purpose of obtaining reparations for African descendants in the United States.¹

Reparations as defined by the National Coalition of Blacks for Reparations in America is a process of repairing, healing and restoring a people injured because of their group identity and in violation of their fundamental human rights by governments or corporations.²

The mission of the Legal Strategies Commission is to develop legal strategies to advance the movement for reparations. In 1995, the Legal Strategies Commission began discussions with the National Conference of Black Lawyers and interested National Coalition of Blacks for Reparations in America members about the development of reparations litigation. We were convinced that a litigation strategy was necessary and a memorandum was developed and shared with the Board of Directors in June 1997 that outlined the legal obstacles to such litigation and how they could be overcome. In September 1997 the Legal Strategies Commission created the National Coalition of Blacks for Reparations in America Litigation Committee.³

The Legal Strategies Commission has defined five injury areas, that is, Wealth and Poverty, Peoplehood/Nationhood, Education, Health and Criminal Punishment. The five injury areas were selected to address how enslavement and the vestiges of enslavement impact the lives of African descendants both during enslavement and currently. The Legal Strategies Commission has had the involvement of leading scholars, lawyers, activists and social scientists developing research and proposals in the aforementioned injury areas for purposes of education and potential litigation.

The Wealth/Poverty committee has looked at the fact that Blacks are disproportionately represented among the poor. The scholarly work of Robert Westley in his law journal article entitled, “ Many Billions Gone” (1998) has been used extensively to support this position; the Criminal Punishment committee has found the existence of a dual system of justice for Blacks and whites from enslavement and the vestiges thereof; the Education committee has explored the continuing dual education systems for Blacks and whites and the impact of lesser educational opportunities in Black communities as compared to white communities; the Health committee looked at various treatment of certain health conditions of Blacks as well as the fact that the mental health impact of enslavement and the vestiges of enslavement has been primarily ignored; and the Peoplehood/Nationhood committee has looked at culture and the denial of self-determination during enslavement to the present.

II. COMBAT MIS-EDUCATION WITH EDUCATION

Due to the level of mass mis-education on the notion of “reparations,” it is imperative that Congressional Leaders accept the opportunity for national dialogue as set forth by H.R. 40. Perhaps the greatest misunderstanding on the part of many Africans (Blacks) and non-Africans (non-Blacks) is that somehow reparations is a government “shakedown” or an “undeserved handout.”⁴

The intergenerational manifestations of degradation and dehumanization of people of African descent would be explored by the passage of H.R. 40, Commission to Study Reparations Proposals for African American Act.

III. LITIGATION- TULSA CASE

According to the Tulsa Race Riot Commission Report of 1921 in part:

Black Tulsans had every reason to believe that Dick Rowland would be lynched after his arrest on charges later dismissed and highly suspect from the start. They had cause to believe that his personal safety, like the defense of themselves and their community depended on them alone. As hostile groups gathered and their confrontation worsened, municipal and county authorities failed to take actions to calm or contain the situation.⁵

Adjoa Aaiyetoro, the former Co-Chair of Legal Strategies Commission for the National Coalition of Blacks for Reparations in America is the current Co-Chair along with Charles Ogletree of the Reparations Coordinating Committee that filed the lawsuit on behalf of the survivors and descendants of the victims of the destruction of Black Wall Street, Tulsa, Oklahoma. To date, the Reparations Coordinating Committee has filed a petition seeking a writ of certiorari from the Supreme Court in an attempt to have that court reverse the lower court’s decision that Plaintiffs’ claims are barred by applicable statute of limitations.

The United States Court of Appeals for the Tenth Circuit agreed with the District Court that the statute of limitations should be tolled because the Plaintiffs did not have nor could have received meaningful access to the courts in the immediate aftermath of the Riot of 1921 and for several decades thereafter. However, the Court arbitrarily noted that the statute of limitations should be tolled sometime at the end of Jim Crow, but not specifically when during 1960’s. Additionally, the Court asserted that evidence suggested the publication of Dr. Scott Ellsworth’s book, *Death in a Promised Land* in 1982 marked the point at which Plaintiff’s were on notice of their claims regarding the City and State’s involvement in the Riot of 1921.⁶

The Reparations Coordinating Committee argued that the statute of limitations should be tolled until the submission of the Commission Report by the state (February 2001) because until that time, the Plaintiffs did not know the level of culpability or responsibility of the City and State.⁷

The Tulsa case exemplifies the need for dialogue to address not only the Tulsa court's reasoning but the manner in which enslavement and the vestiges of enslavement can be time limited to an unspecified period due to the publication of a book as oppose to an official Commission report which the legislature of the State of Oklahoma adopted many of its findings.

It should be noted for historical accuracy that in 1922 even in the face of reports of violent race riots in her home state, Congresswoman Alice Mary Robertson of Oklahoma remained unsupportive of the Dyer Bill, introduced by Congressman Dyer of Missouri which provided for jurisdiction of the federal courts to punish county officers and lynchers. It also required any county that was the scene of the lynching to forfeit \$10,000 to the United States Government.⁸

IV. WHY H.R. 40 MUST PASS NOW

H.R. 40 must pass this year 2005 because to not do so further prolongs a historical opportunity to act. The obligation of Congress to take action and its failure to do so is historically exemplified in its failure to achieve anti-lynching federal legislation during record numbers of lynching in the early twentieth century.

Congressman Chalmers in the Sixty-Seventh Congress attempted to address the issue of lynching from a moral standpoint by referencing the lynching of Mary Turner during the official Congressional debate.⁹

According to noted historian Walter White:

In Georgia, 1918, a mob of white men, unable to locate an African American man suspected of the murder of a white farmer, lynched eight innocent men, Will Head, Chime Riley, Will Thompson, Hayes Turner and four unidentified African-Americans. Mary Turner, pregnant woman, was also lynched for loudly proclaiming the innocence of her husband, Hayes Turner. She was hung by her feet, gasoline was thrown on her clothing, and she was set on fire. Her body was cut open and after her infant fell to the ground with a little cry, the child was crushed to death by the heel of one of the white men present. The mother's body was then riddled with bullets.¹⁰

The silence of Congress to act in the face of countless gruesome details of lynch mobs such as the one of cited above speaks volumes. This period of inaction is best stated in the words of historians Steward E. Tolnay and E.M. Beck:

This was an extraordinary period of American history, during which ordinary folks did unspeakable things. They were not monsters who temporarily assumed the persona of southern whites. They were the town barber, the local blacksmith, and even the county sheriff.¹¹

It was Congressman Dyer of Missouri during the Sixty-Eighth Congress on June 24, 1924 who stated, “It [lynching] blots our fair name as a Nation, for we can not claim to be civilized until our laws are respected and enforced and our citizens secured against the hideous cruelties of which we are constantly furnishing fresh examples.”¹²

Congressmen and women, I appeal to your moral conscience. Louisiana Democratic Senator Mary Landrieu and Virginia Republican George Allen to their credit have reintroduced a Senate apology for failing to enact legislation in the past and that probably increased the number of lynching victims around the country, which has garnered the support of 34 co-sponsors including Senate Majority Leader Bill Frist of Tennessee and Minority Leader Harry Reid of Nevada.¹³

Members of Congress, do not allow yourselves in the year 2005 to furnish a fresh example of disengagement, to be historically defined as a Congress who failed to acknowledge the social utility in engaging in a study on Reparations for yet another year, since 1989 when the Congressman John Conyers first introduced H.R. 40.

Today, we are before you requesting that you exercise your Congressional powers to speak. You have been empowered by the people to speak on behalf of the people. We urge you to yield that power in a way that will best reflect your personal and collective integrity for future generations who ask the question, Why did Congress repeatedly fail to address the issues which continue to “blot” our fair name as a Nation.

V. CONCLUSION

Dr. Kevin Washington, Counseling Psychologist, Washington, DC suggests that:

We must consider the overall health of present day Afrikans and Afrikans of the Diaspora, that is, the Psychological Health, Physical Health and Economic Health. We must examine contemporary socialization patterns to glean an understanding of the *Maafa*, a Kiswahili term meaning disaster and used most notably in the writings of Dr. Marimba Ani to capture the depth of enslavement. We must look at some of the traumatic events that have occurred to Afrikan people within the context of the *Maafa* and explore their impact on our relationship with our families and ourselves.¹⁴

The Congressional inaction of the past specifically regarding anti-lynching legislation did not stop lynching. Lynching did not cease. We would only have to look to June 7, 1998, when police officers responded to a call to go to Huff Creek Road in the town of Jasper, Texas. In the road, in front of a church they discovered the body of James Byrd, Jr.

missing his head, neck and right arm. The remains of his pants and underwear were gathered around the victim's ankles.¹⁵

Randall Robinson in his book, "The Debt: What America Owes to Blacks," correctly states that 'no race, no ethnic or religious group, has suffered so much over so long a span as Blacks have, and do still, at the hands of those who benefited, with the connivance of the United States government, from slavery and the century of legalized American racial hostility that followed it.'¹⁶

Members of Congress, the bottom line is that you have been in a state of inaction as it relates to moving H.R. 40 out of the Judiciary Committee for 16 years. Now is your opportunity to do something significant for the past, the present and the future.

ENDNOTES

¹ Reparations and The National Coalition of Blacks for Reparations in America (N'COBRA) Information Sheet (May 2004) [hereinafter N'COBRA Information Sheet].

² N'COBRA Information Sheet, *supra* note 1, at 1.

³ The National Coalition of Blacks for Reparations in America (N'COBRA) Legal Strategies Commission, available at <http://www.ncobra.org/comm.htm>

⁴ Raymond A. Winbush, Ph.D., *Reparations for Africans: A Brief Overview of their History*, Communique, Office of Ethnic Minority Affairs- Public Interest Directorate, Special Section on Reparations: Repairing the Psychological Harm, American Psychological Association, Jan. 2005 at vi; See generally, RAYMOND A. WINBUSH, SHOULD AMERICA PAY? SLAVERY AND THE RAGING DEBATE ON REPARATIONS (Raymond A. Winbush ed., 2003).

⁵ *Alexander v. Oklahoma*, No. 03-C-133-E, 2004 U.S. Dist. LEXIS 5131, at *8 (10th Cir. March 19, 2004); See generally, ALFRED L. BROPHY, RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921 (2002).

⁶ *Alexander v. Oklahoma*, No. 04-5042, 2004 U.S. App. LEXIS 18957, at *28 (10th Cir. September 8, 2004).

⁷ *Alexander*, *supra* note 6, at 16.

⁸ Deleso Alford Washington, *Exploring the Black Wombman's Sphere and the Anti-Lynching Crusade of the Early Twentieth Century*, 3 GEO. J. Gender & L. 895, 909.

⁹ 67 CONG. REC. 1,346 (1922).

¹⁰ Washington, *supra* note 8, at 911; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, THIRTY YEARS OF LYNCHING IN THE UNITED STATES 1889-1918 at 26-27.

¹¹ STEWART E. TOLNAY & E.M. BECK, A FESTIVAL OF VIOLENCE: AN ANALYSIS OF SOUTHERN LYNCHINGS 1882 -1930, at 257 (1995).

¹² 68 CONG. REC. 10,538 (1924).

¹³ *Senate Lynching Apology Proposed*, Times Dispatch, New York Times and BET, Feb. 4, 2005, available at <http://www.focusdiversity.com/tools/news/html/articledetail.ph?id=394>.

¹⁴ Kevin Washington, Ph.D., *The Deep Cost of the Maafa: Implications for Healing and Reparations*, Communique, Office of Ethnic Minority Affairs- Public Interest Directorate, Special Section on Reparations: Repairing the Psychological Harm, American Psychological Association, Jan. 2005 at xiv.

¹⁵ *King v. State*, 29 S.W. 3d 556, 569 (2000).

¹⁶ RANDALL ROBINSON, THE DEBT: WHAT AMERICA OWES TO BLACKS at 8 (2000).