

Introduction of the Report on Reparations for Transatlantic Chattel Slavery in the Americas and the Caribbean

By Patrick Robinson

1. The Brattle Group's Report on Reparations for Transatlantic Chattel Slavery (TCS) cannot be properly introduced without information about its antecedents.
2. In 2019, as Honorary President of the American Society of International Law (ASIL), I proposed to the Society that it should host an International Symposium on the Lawfulness of TCS.¹ This Symposium, co-sponsored by the Society and the University of the West Indies (UWI), was held on 20-21 May 2021, and concluded that TCS was unlawful on the basis of the law applicable at that time. That conclusion naturally led to a decision to host a Second Symposium to determine reparations due for TCS. This Symposium, again co-sponsored by ASIL and UWI, was held on 9-10 February 2023. At this Symposium, the Brattle Group of Valuators presented their Report.
3. An Advisory Committee was established to resolve difficult issues arising from the assessment of reparations. The Committee consists of Chantal Thomas, Professor of Law, Cornell University, Verene Shepherd, Professor of Social History and Director of the Centre for Reparations Research, Robert Beckford, Professor of Theology at the Queen's Foundation in Birmingham², and myself. I am grateful to Ms Priscellia Robinson, Barrister-at-Law in the United Kingdom, who has assisted as a Consultant to the Advisory Committee. I take this opportunity to thank Ms Natalie Reid for her sterling contribution, including organising and planning the First and Second Symposium. I also wish to thank Professor Chantal Thomas for her role in organizing both Symposia, and I especially wish to express the gratitude of the Advisory Committee for the arrangement that she made with her University for the publication of the presentations at the first Symposium. I am indebted to Yateesh Begoore, Associate Legal Officer at the International Court of Justice (ICJ), and Danilo B. Garrido Alves, Judicial Fellow at the ICJ, for their invaluable assistance. I should also record my indebtedness to Ms Kalaycia Clarke and Ms Kamille Adair Morgan, both Assistant Legal Officers at the ICJ, for their help in earlier parts of this work, as well as Ayse Guzel Ozturk and Sara Kaufhardt, both Judicial Fellows at the ICJ.
4. At the First Symposium, it was concluded that the legality of transatlantic chattel slavery depended on the law of the country in which the transaction of enslavement took place. That transaction took place in African countries, the law and practice of which were opposed to TCS. A second basis for concluding that TCS was unlawful is that it breached

¹ The idea for this proposal came from my Associate Legal Officer at the International Court of Justice, Ms Kaylacia Clarke, a Jamaican.

² Robert Beckford is also Professor of Social Justice at the University of Winchester and Professor of Theology at Vrije University, Amsterdam.

a normative principle of humanity which called for respect of the inherent dignity and personhood of all human beings, including Africans. This principle is recognized in the 1814 Treaty of Ghent, between Britain and the USA, both slaveholding States, as well as the 1815 Vienna Declaration adopted by eight European states, including Britain, France, Spain and Portugal, all slaveholding States. I have addressed this in greater detail in Part II of my Lecture to the Committee on the Elimination of Racial Discrimination on 27 April 2023.³

5. When we speak of reparations for transatlantic chattel slavery we mean reparations for the process of chattelization of Africans that included the following phases: capture and sale of Africans in Africa; the forced trek to the slave dungeons on the coast and to ships in the harbours; their internment in the slave dungeons and ships; the notorious Middle Passage, as well as the traffic between Brazil and Africa; their sale in the Americas and the Caribbean; and their forced and unpaid labour on the plantations; to that list must be added the trade in enslavement that supported the practice of transatlantic chattel slavery. Every phase constituted wrongful conduct. The essence of chattelization was the discriminatory treatment of Africans as things, the denial of their humanity and personhood
6. There is a need to ascertain whether the alleged injury or damage is the consequence of the wrongful conduct of those States that carried out transatlantic chattel slavery. The Advisory Committee concluded that, in relation to reparations for the enslavement period, the requirement of causation was met, because there is a sufficiently direct and certain causal nexus between the injury or harm for which reparation is to be paid and the wrongful conduct of TCS. Consequently, reparations are required.
7. In respect of TCS in the period following its formal termination, the Advisory Committee found that reparations were due for the continuing breach of the obligations owed by former slaveholding States. The formal grant of freedom to the enslaved did not terminate the discriminatory treatment of Black persons as chattels, which was the hallmark of transatlantic chattel slavery. Perhaps this outcome should not surprise us, since it may be argued that it was primarily economic, rather than moral considerations, that led a country such as Great Britain to terminate TCS. For this, please see Eric Williams' "Capitalism and Slavery".⁴
8. In relation to the post-enslavement period, it is important to understand that the systemic breach of the general principle of law calling for respect of the inherent dignity and personhood of Africans, that characterized the period of enslavement, continued after the

³ Patrick Robinson, "The Greatest Development in International Law since 1945" (2023), available at www.ohchr.org/en/news/2023/04/experts-committee-elimination-racial-discrimination-discuss-development-international#:~:text=vitality%20and%20validity,-,The%201814%20Treaty%20of%20Ghent%20between%20the%20United%20States%20and,principles%20of%20humanity%20and%20Justice".

⁴ Eric Williams (1944). *Capitalism and Slavery*. University of North Carolina Press. The book was first published in the UK only in 2020, by Penguin Books.

formal termination of TCS; as already noted, the essence of this systemic breach was the discriminatory treatment of the enslaved. Spain carried out systemic breaches of enslaved Africans in Jamaica from 1509 to 1655; these systemic breaches were continued by the British from 1655 to 1838, and again by the British in the post-emancipation period up to Jamaica's independence in 1962.

9. The requirement of causation is met because there is a sufficiently direct and certain causal nexus between the wrongful conduct of transatlantic chattel slavery, on the one hand, and the injury or harm suffered by the former enslaved and their descendants after the formal termination of transatlantic chattel slavery, on the other. Consequently, reparations are required under international law.
10. The forms of reparation are restitution, compensation and satisfaction; these are reflected in Articles 35, 36 and 37 respectively of the International Law Commission's (ILC)⁵ Articles on State Responsibility.
11. Restitution involves “re-establish[ing] the situation before the wrongful act was committed”. In my view, restitution is not practicable in relation to TCS, although one cannot rule out the possibility of a form of restitution involving the return of the descendants of the enslaved to Africa.
12. Since the damage caused by TCS cannot be made good by restitution, the former slaveholding States must provide compensation for any financially assessable damage. We know that the damage from TCS is financially assessable because the Brattle Group has provided a valuation of the resulting damage.
13. However, the damage caused by TCS is so deep and widespread that it cannot be made good by restitution or compensation, in which case satisfaction must be given by the former slaveholding States. According to Article 37(2) of the ILC’s Articles on State Responsibility, satisfaction may consist of “an acknowledgement of the breach, an expression of regret, a formal apology or some other appropriate modality”. I would be wary of requiring an apology as the first form of reparation, because the apology may be given, but not followed by restitution or compensation. We should demand first restitution and then compensation.
14. With regard to the enslavement and post-enslavement periods, the Advisory Committee identified several heads of damages. I will focus on one, that of non-material injury, reflected in the total disregard for the humanity and dignity of enslaved Africans, trampling over their identity, destruction of their culture, language, religion and families, loss of personal autonomy, and self-hatred. In this regard, I would highlight, in relation to the question of identity, the disappearance of original African names. Recently, there was a verbal tiff in the Parliament of Trinidad and Tobago between the Leader of the Opposition, a former Prime Minister of Indian descent, and a Minister of the

⁵ The International Law Commission was established by the United Nations General Assembly in 1947 and charged with the progressive development and codification of international law. It consists of 34 members.

Government, a person of African descent. The latter had called out the full name of the Leader of the Opposition, who responded, "what problem you have with my name? Camille, at least I have a name from my ancestors, where you got yours from? Your name is that of a slave master". While this response is entirely factual, it does illustrate one of the worst effects of TCS relating to the identity of the enslaved. This is an example of the classic workings of TCS; it is bad enough to deprive the enslaved African of his or her name, one of the principal markers of his or her identity, but it is double galling and reprehensible to force your name on the enslaved, so that he or she and all his or her descendants, like Camille Robinson, will have names that are not the names of their ancestors, but instead, the names of their slave masters. Nothing better illustrates the essence of TCS, the total disregard of the inherent dignity, humanity and personhood of the enslaved. This is a wrong for which reparations must be made.

15. In my view, satisfaction will form an important component of reparations for transatlantic chattel slavery, because neither restitution nor monetary compensation will make good the damage caused by TCS. There will be a need to ensure that programmes are implemented to educate former slave holding States and the descendants of the enslaved about the history of transatlantic chattel slavery. Can you imagine that, in Jamaica, we are still not requiring our students to learn Caribbean history; it should be required for the first five years of secondary school, and be made compulsory in the CSEC⁶ examinations. It is an indictment on successive governments of this country that 61 years after independence, and 63 years after I wrote English History, European History, Ancient History, and World Affairs in the Cambridge Higher School Certificate Examination, there is no meaningful course of Caribbean history in our secondary schools. As I have had occasion to say before, for us in Jamaica, "our students must have Marcus Garvey for breakfast, Marcus Garvey for lunch, and Marcus Garvey for dinner".
16. I turn now to the Report on Reparations for TCS prepared by the Brattle Group of Valuers.
17. There is an almost insuperable difficulty in quantifying what many regard as unquantifiable, namely, reparations for the grotesque atrocity of transatlantic chattel slavery. However, the difficulty of the task at hand should not deter us from confronting this challenge, which must be undertaken if we are to execute the sacred trust left to us by those who were enslaved.
18. At the outset, on behalf of the Advisory Committee, I would like to express my gratitude to the Brattle Group for this very consequential Report. Brattle is an internationally recognized and respected group of expert economists with offices in several countries. Their practices span several sectors and subject matters, including valuation analysis and expert testimony on damages in international disputes. Let us also recognize the contribution to our work by the 2010 documentary, 'The Empire Pays Back'. Notably,

⁶ Caribbean Secondary Education Certificate.

this documentary was produced by Robert Beckford, who is a member of the Advisory Committee. It estimated the reparations to be paid by Britain for TCS in the Caribbean. There are several references to this documentary in the Brattle Report (see for example, page 20 of Brattle Report).

19. The aim of the Second Symposium, and therefore, of the reparatory exercise, was to cover the entire universe of transatlantic chattel slavery, that is, all the countries in which TCS was carried out. I wish to clarify that as much as I am wholly Caribbean in outlook, it was never my intention to confine this work to the Caribbean. As I have said on many occasions, we Africans in these parts all came on the same boat. Accordingly, the Brattle Report assesses reparations for TCS as it was carried out in countries in the Caribbean, in Central America, in South America and in North America. The Report provides, for the first time, a determination of the reparations due in the universe of TCS.⁷
20. The Report identifies the reparations that are due in respect of 31 countries in which TCS was carried out. This is set out in Tables 15, 16 and 17 at pages 43, 44 and 45, respectively, which relate to the enslavement period; as for the post-enslavement period, this is set out in Table 22, page 56.
21. The Advisory Committee's position is that it is the descendants of the enslaved Africans who should be the beneficiaries of the reparations that are due. It is noted that the United Kingdom, France and the Netherlands still have colonies in the Caribbean; great care must be taken to ensure that in those colonies the descendants of the enslaved benefit from reparations. No doubt these are matters that would have to be worked out with the particular governments in those colonies and their colonial powers.
22. Moreover, I strongly believe that reparations should not be in the form of monies handed over to individuals; rather, the reparatory sums should be used for developmental purposes, to provide the services in education, health, housing, technology and other areas, of which, generally, the descendants of the enslaved have been deprived.
23. I am also of the view that sums paid over as reparations should be segregated from other governmental funds and administered by a body that is insulated from political influence. I take pride in saying that, with all our faults, in Jamaica, we have shown that such bodies can be created and succeed in their work: the Electoral Commission of Jamaica is an example.

⁷ It is regrettable that the scope of the work of the Advisory Committee and, therefore, of the Brattle Report itself, is confined to the Caribbean, South America, Central America and North America. There are many descendants of the enslaved in the United Kingdom and other countries. One can mention the ill-treatment of the Windrush generation in the United Kingdom. In 1948, in response to the United Kingdom's call for assistance following the atrocities of the Second World War, Jamaicans and other Caribbean persons travelled on the vessel, the Empire Windrush, to the United Kingdom. Over the next 20 years, hundreds of Jamaicans and persons from other Caribbean islands travelled to the United Kingdom and worked in several areas of national life, including nursing, construction and transportation. Regrettably, there has occurred the "Windrush scandal", in which the Windrush generation has been subjected to ill-treatment, including deportation and unlawful detention, resulting from changes in the law affecting their immigration status. This must be an example of what a great English literary figure called "ingratitude, more strong than traitors' arms".

24. Reparatory sums warrant special care because they reflect the execution of the sacred trust left to us by our enslaved ancestors never to stop pressing for reparations. Our enslaved ancestors were not in a position to press for reparations, but we are and we must. However, we are not the first. The trail was blazed by our brilliant Caribbean, St. Lucian compatriot, and Nobel Laureate, Sir Arthur Lewis, in his 1939 book “Labour in the West Indies”. He argued that the British owed reparations to the ancestors of those who were enslaved in the West Indies and who “contributed to the wealth of Great Britain, a debt which the British have yet to pay”. I attended the University College of the West Indies when Arthur Lewis was its Vice-Chancellor. Today, those of us who call for reparations stand on the shoulders of this outstanding Caribbean national, who at the young age of 33, became Britain's first black Professor, at the University of Manchester.
25. Brattle's work on reparations for TCS would not have been possible without the contribution of Professor David Eltis of Emory University in the USA and his colleague, Professor David Richardson of Hull University. Together, the distinguished historians produced a database setting out the voyages from Africa to the Americas and the Caribbean, the number of Africans who embarked on the ships, and the number who disembarked in the various countries—the difference between the two indicating the number who perished on the voyages.⁸ Since compensation is the product of the number of enslaved who suffered a particular injury or harm and the value attached to that injury or harm, the significance of Professor Eltis' work is immediately obvious. Professor Eltis was kind enough to meet with the Advisory Committee. Professors, on behalf of the Advisory Committee, I thank you both for your seminal work. I also wish to thank Samantha Campbell and Mickel Hylton, two young Jamaicans, who carried out research relating to the number of Africans who embarked on and disembarked from ships during TCS.
26. In its assessment of reparations for the period of enslavement, Brattle identifies a number of what I have called heads of damages. The heads of damages quantified by Brattle are (i) loss of life and uncompensated labour, (ii) loss of liberty, (iii) personal injury, (iv) mental pain and anguish, and (v) gender-based violence. The Report does not address some of the harms identified by the Advisory Committee in its work, such as deprivation of access to a number of services, including health, housing and education. Brattle states that these harms have not been quantified because of current data limitations (see page 45 under the heading "Not Quantified Harms").
27. A major point for consideration in the Brattle Report are the sums that have to be paid as reparations in respect of the period of enslavement, and which are set out in Tables 15, 16 and 17 at pages 43, 44 and 45, respectively. The figures are high. For example, as set out

⁸ Eltis, David and David Richardson. Atlas of the Transatlantic Slave Trade. Yale University Press, 2015; "Trans-Atlantic Slave Trade - Database." Slave Voyages, 2021. <https://www.slavevoyages.org/voyage/database>; "Trans-Atlantic Slave Trade - Essays." Slave Voyages, 2021. <https://www.slavevoyages.org/voyage/essays#interpretation/overview-trans-atlantic-slave-trade/introduction/0/en/>.

in Table 16, Britain is required to pay as reparation for TCS in 14 countries the sum of about \$24 trillion; of that sum, the United Kingdom is required to pay about \$9.5 trillion in respect of Jamaica. Spain is required to pay about \$17 trillion; of that sum, it is required to pay \$102 billion to Jamaica. The United States is required to pay the sum of about \$26 trillion, in respect of its practice of TCS in the USA from 1776 to 1865. We must ensure that this sum is paid and that the descendants of the enslaved in the USA benefit from the reparations due. France is required to pay, in respect of four countries, the sum of about \$9 trillion. Portugal is required to pay, in respect of Brazil, the sum of about \$20 trillion. Brazil is required to pay about \$4 trillion in respect of its practice of TCS in Brazil from 1822 to 1888. The Netherlands is required to pay about \$5 trillion; of that sum, it is required to pay about \$3 trillion to Suriname and about \$52 billion to Guyana. The aggregate sum of reparations to be paid by all the former slaveholding States is about \$107.8 trillion.

28. The Advisory Committee spent a long time considering these sums. More specifically, we spent some time deliberating whether they should be reduced. However, we concluded that the figures should remain as determined by the Brattle Group. I will later identify the bases for this conclusion (paragraphs 33-35).
29. The Advisory Committee concluded that the reparatory sums determined by Brattle reflect the enormity of the grotesque and unlawful practice of TCS. Nonetheless, it decided to recommend to countries entitled to reparations that they consider, in consultation with the former slave-holding countries, that reparations may be paid over a 10-year period, a 15-year period, a 20-year period, or a 25-year period. Payment schedules in respect of these periods are attached as Annexes I and II. The Advisory Committee strongly recommends that any such arrangement should be secured by a binding agreement. I express my gratitude to Mr David Marston, a Jamaican and a former Deputy Director and Chief Risk Officer at the IMF, for preparing the payment schedules. It should be noted that the sums set out in Tables 16, 17 and 23 represent the compensation to which a victim State is entitled; moreover, the payment schedules are only recommendatory, and it remains within the sovereign will of a victim State to determine what sum, other than the compensation to which it is entitled, it will accept as reparations.
30. There is a point in the Report that deserves special mention. As you are aware, following the Haitian revolution, Haiti became a republic in 1804, a monumental achievement in the history of enslaved Africans in the Americas and the Caribbean. You will see in the Report (Table 33 on page 73) that France is required to return to Haiti the sum of 90 million Francs (about \$1.4 billion in today's money) that it extracted from Haiti as compensation for plantation owners who lost their property, i.e., the enslaved. The basis for this requirement is the principle of unjust enrichment. Perhaps the best definition of unjust enrichment is to be found in the Third American Restatement: "any unequal

transfer of value without an adequate legal basis”;⁹ the Restatement concludes that the common feature of these anomalous transfers is that “they are all in some sense non-consensual”. The extraction by France of this sum of money from the newly independent Haiti was quintessentially non-consensual. The sum to be returned by France to Haiti is reflected as part of the reparations France owes Haiti. This is one of the saddest moments in the history of TCS. The problems that Haiti have suffered over the years are well-known. It is beyond question that this unjust extraction of wealth from a newly independent country is part of the explanation for the difficulties that our Caribbean neighbour has faced over a very long time. It took Haiti a hundred and twenty-two years to pay this sum. Well-known songwriter and calypsonian of Trinidad and Tobago, David Rudder, has penned a song that poignantly captures the pain of Haiti. Speaking of the revolutionary leader Toussaint Louverture, he writes

“But this rebel, he walked through Napoleon
Who thought it wasn't very nice
And so today my brothers in Haiti
They still pay the price [...]
Haiti, I am sorry.
Haiti, I am sorry.
One day we'll turn our heads
Restore your glory”

31. But we in Jamaica must choose today as the day when we turn our heads to assist our neighbour in the crisis it now faces. Haitians and Jamaicans came to these parts on the same boat. The enslaved Boukman, who was transported as a slave from Jamaica to Haiti, played a prominent role in the early stages of the Haitian Revolution. Haiti is only 80 miles from Jamaica. There is an overriding obligation on Jamaica to find a way to assist Haiti. We cannot escape this obligation.
32. As stated before, satisfaction is a form of reparation that is required when the damage caused by wrongful conduct is not made good by restitution or compensation. That is certainly the case with TCS. The Advisory Committee believes that the form that satisfaction should take is a matter that should be left to the country entitled to reparations, in consultation with the former slave holding country. We have already seen that satisfaction may take one of several forms, including an apology. I would suggest that, for the benefit of Caribbean and other States entitled to reparations, the CARICOM Reparations Commission devise programmes that would, in addition to compensation,

⁹ Restatement (Third) of Restitution and Unjust Enrichment (July 2010), Paragraph 1. The restatement is published by the American Law Institute (ALI) and prepared by distinguished academics. Notably, the late US Supreme Court Justice Antonin Scalia criticized the ALI's restatements in his February 25, 2015 dissent in *Kansas v. Nebraska* (574 U.S. 445 (2015)) for stating the law not as it is, but as the academic writers would like it to be. Nonetheless, the restatement is highlight regarded.

assist in dealing with the effects of TCS. This form of satisfaction would complement monetary compensation.

33. It will be observed that the Report does not address the earnings of plantation owners, banks, insurance companies and other entities that profited from TCS. We are still working on accessing the relevant data and sorting out some related legal questions. However, the Report does include as part of the reparations to be paid by former slave holding States, the sums which ought to have been paid to Africans in periods of Apprenticeship. We have also required former slaveholding States to pay over to victim States the compensation they wrongly paid to plantation owners on emancipation (Table 33, page 73).
34. May I now turn to reparations for the post enslavement period. Discriminatory treatment of the enslaved, the hallmark of chattelization, continued after the formal termination of TCS, and was reflected in many ways; for example, the 100-year Jim Crow period in the USA, the 1921 Tulsa Massacre in the USA, and the Morant Bay War of 1865 in Jamaica.
35. In their assessment of the reparations that are due in the post enslavement period, Brattle uses the measure of wealth disparity between the descendants of the enslaved and their colonizers. Wealth disparity is a useful tool to explain the lack of access of the descendants of the enslaved to a variety of services including education, health and housing. Table 22, page 56, sets out the reparations to be paid for 31 countries in the post enslavement period. Reparations to be paid by Britain total about \$2 trillion, of that sum Britain is to pay Jamaica about \$564 billion. The USA is to pay about \$10 trillion in respect of the USA. France is to pay about \$2 trillion, in respect of Haiti and Guyana. Portugal is to pay \$1.826 trillion in respect of Brazil. Brazil is to pay \$393 billion in respect of Brazil. Spain is to pay about \$6 trillion dollars in respect of 11 countries. The Netherlands is to pay \$83 billion. As with reparations for TCS in the period of enslavement, a payment schedule is set out in Annex III in respect of reparations for the post-enslavement period. The aggregate sum of reparations to be paid by all former slaveholding countries is about \$23 trillion.
36. I have already indicated that although the compensatory sums are high, the Advisory Committee decided not to reduce them. The main consideration is that the Report is already an underestimate of the reparations that are due, and for that reason a reduction is not required. I set out below aspects of the Report reflecting this underestimation of reparations:
 - i. Generally, Brattle has been very conservative in its working methods. For example, Brattle noted that “[f]or every enslaved person embarked to the United States, 22 people were born into slavery” (see page 26 of Report). However, Brattle also observed that the “ratio was likely lower in other geographies”. Consequently, Brattle decided to use the assumption in the 2010 documentary, ‘The Empire Pays Back’, which assessed reparations for TCS in the Caribbean; it determined the number of persons born into

slavery on the assumption that one person was born into slavery for every three that were embarked. Since the number of enslaved persons who suffered a particular harm or injury is an important part of the calculation of reparations, this conservative approach obviously reduced the compensatory sums significantly and underestimates the total reparations due.

- ii. In financial transactions, an appropriate rate of interest for monies owed is necessary to protect the time value of money; this is especially the case in respect of reparations for TCS, a practice that covered hundreds of years. The Brattle Group has been very conservative in fixing the interest rate, which, inevitably comprises a large portion of the compensation (page 11). Brattle notes that an interest rate of 3% would be conservative. However, it uses even lower interest rates of 2.3%, and 2.5%, an approach that reduces the compensatory sums significantly and therefore leads to an underestimation of the total reparations due.
- iii. In respect of the enslavement period, Brattle acknowledges that several harms inflicted on the enslaved are not fully captured by the five quantified harms, namely, lost labour, lost life, loss of liberty through false imprisonment, personal injury, mental pain and anguish, and gender-based harm. These unquantified harms include deprivation of social and political life, and deprivation of access to services such as health, education and housing. These harms have not been quantified on account of data limitations. Their non-quantification reduces the compensatory sums significantly and therefore leads to an underestimation of the total reparations due.
- iv. Brattle explains that, in respect of the post-enslavement period, the measure of wealth disparity is inherently conservative for two reasons: “First, it does not incorporate non-economic harms. Second, it does not account for the differential in economic consumption over time”. (page 50 of the Report) Brattle further concludes that since the effects of the harms are only partially reflected in the wealth disparity measure, the estimate of \$22.931 trillion is to be viewed as a lower bound, that is, it is a conservative, minimum, figure. Consequently, this figure grossly reduces underestimates the total reparations due.
- v. Many harms were not quantified by Brattle in relation to the post enslavement period. The Report rightly concludes that “[a]bolition did not end racism” (page 74). It explains that the Group was “unable to quantify the innumerable ways in which racism and racist institutions affect the lives of Black individuals today”. Therefore, the Report does not quantify the compensation that is due for racial violence (between 1882 and 1968,

3,446 Black Americans in the USA were lynched) and discrimination. The non-quantification of these harms post-enslavement is a factor resulting in the sum \$22.931 trillion being an underestimation of the compensation that is due.

37. It will be noticed that the reparations are larger than the GDP of some former slave holding countries. For example, in respect of the period of enslavement, Britain with a GDP of \$3 trillion, is required to pay in total, compensation of \$24.011 trillion, based on a 2.5% interest; or \$17.141 trillion, based on a 2.3% interest. The Advisory Committee found convincing the following comments and conclusions of Brattle relating to this outcome:

- i. This result is not surprising since “GDP is a measure of the annual output of a country, while the damages [Brattle] [has] calculated here occurred over centuries” (page 82). Consequently, it is understandable that one year’s output of a country’s economy “is insufficient to repair the damages inflicted on millions of people over 200, 300 or more years”.
- ii. It is more reasonable to compare the reparations with the cumulative GDP since the period of enslavement. When that is done, the reparations are “only a fraction of the cumulative GDP over the period when they arose and remained unpaid”: 4% for the US and 13% for the UK, as shown in figure 12 on page 84.

38. Moreover, the delay in the payment of the compensation contributes to the very high compensation sum.

39. General Conclusions:

- i. In this exercise, the Advisory Committee has followed the sequence of, first, considering the question of the legality of TCS, concluding that it was unlawful, considering the requirement of causation, concluding that it was met, and, thereafter, determining the reparations due for that unlawful practice.
- ii. The sequence followed by the Advisory Committee, and the conclusions arrived at in determining the reparations for transatlantic chattel slavery may be used as a basis for negotiating a diplomatic settlement.
- iii. An important question is who are the addressees of this work? First, it must be brought to the attention of the States who have an international responsibility to pay reparations. Obviously, the Report should also be brought to the attention of the States in which TCS was carried out. It is the descendants of the enslaved in these countries who should benefit from reparations. Third, it should be brought to the attention of every single State in the international community, as well as international organisations, such as the United Nations, regional organisations, and

influential non-governmental organisations (NGOs). In other words, in the quest for reparations, all hands must be on deck.

- iv. The descendants of the enslaved should not see this Report as a panacea. It clearly cannot provide an assurance that reparations will be paid. Political and diplomatic work at the very highest level is called for to influence the former Slave holding countries to pay reparations. The value of the Report is that it tells the victim States the reparations to which they are entitled under international law for TCS. This is a tool that they did not possess, and it will be a vital instrument as they press for reparations. Before this Report, the descendants of the enslaved were groping in the dark.
- v. If a victim State accepts aid from a former Slave holding State, it must clarify that acceptance of the aid is without prejudice to the reparations that are due from that State for its practice of TCS.
- vi. We in Jamaica should not allow our lack of numbers and wealth, and our status as a developing country, to deter us from executing the sacred trust left to us by our ancestors to seek reparations for TCS. Let us take heart from, and be inspired by, this young Jamaican female athlete who was asked by a reporter at a recent CARIFTA¹⁰ track meet to comment on what the reporter clearly saw as Jamaica's superlative achievement in placing first and second in the 100 meters hurdles event. Not missing a beat, she replied, "it is not the first, we are capable of anything because we are Jamaicans."

¹⁰ The Caribbean Free Trade Association.